Subject Property

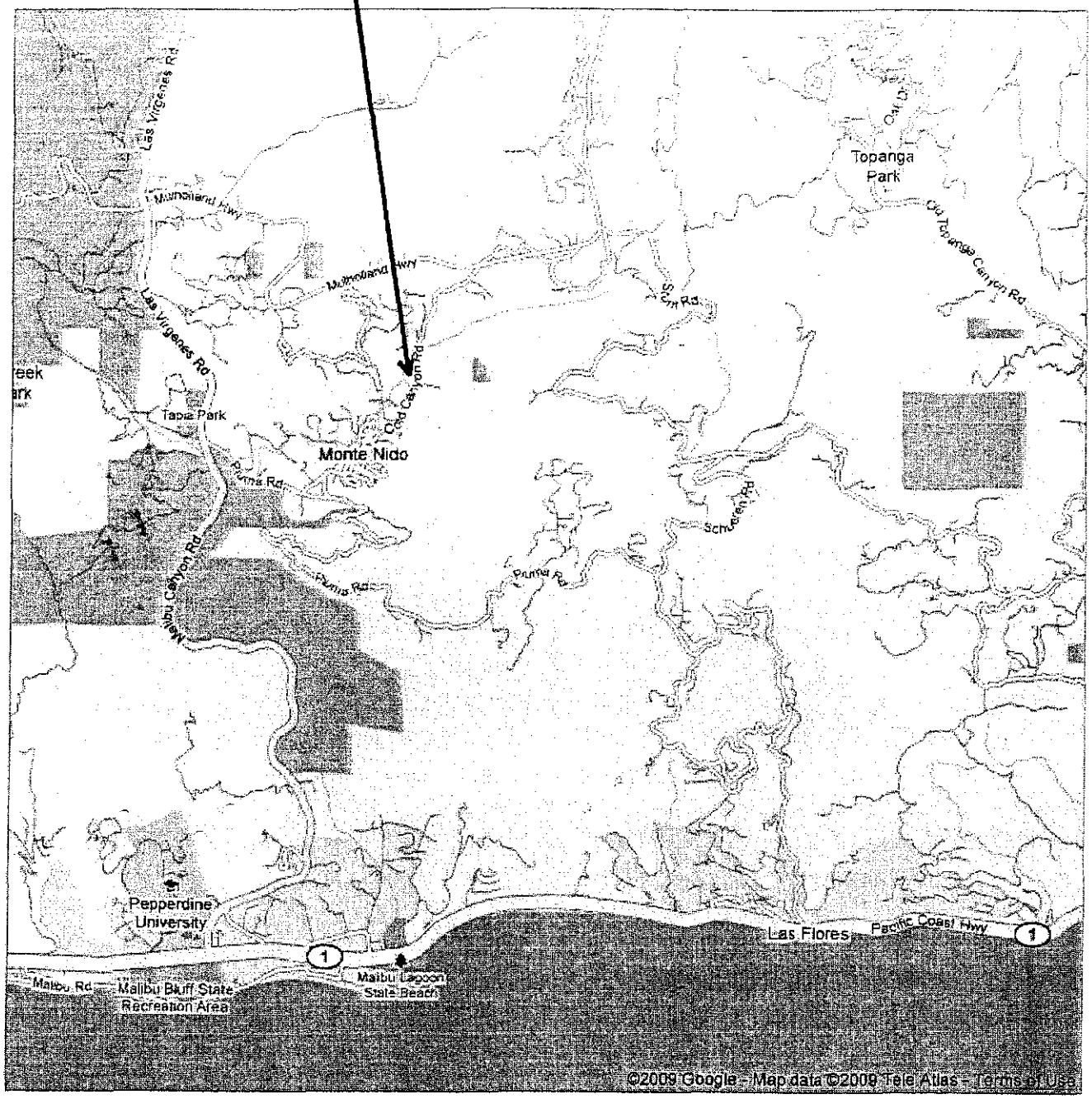


Exhibit 1
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

4456	39 SHEET	P. A. 4456-39	TRA 4971 4974	REVISED 200108100400900 1-07 200411230400600 1-07	200411230400800 1-07				SEARCH NO		OFFICE OF THE ASSESSOR COUNTY OF LOS ANGELES COPYRIGHT © 2002

2005

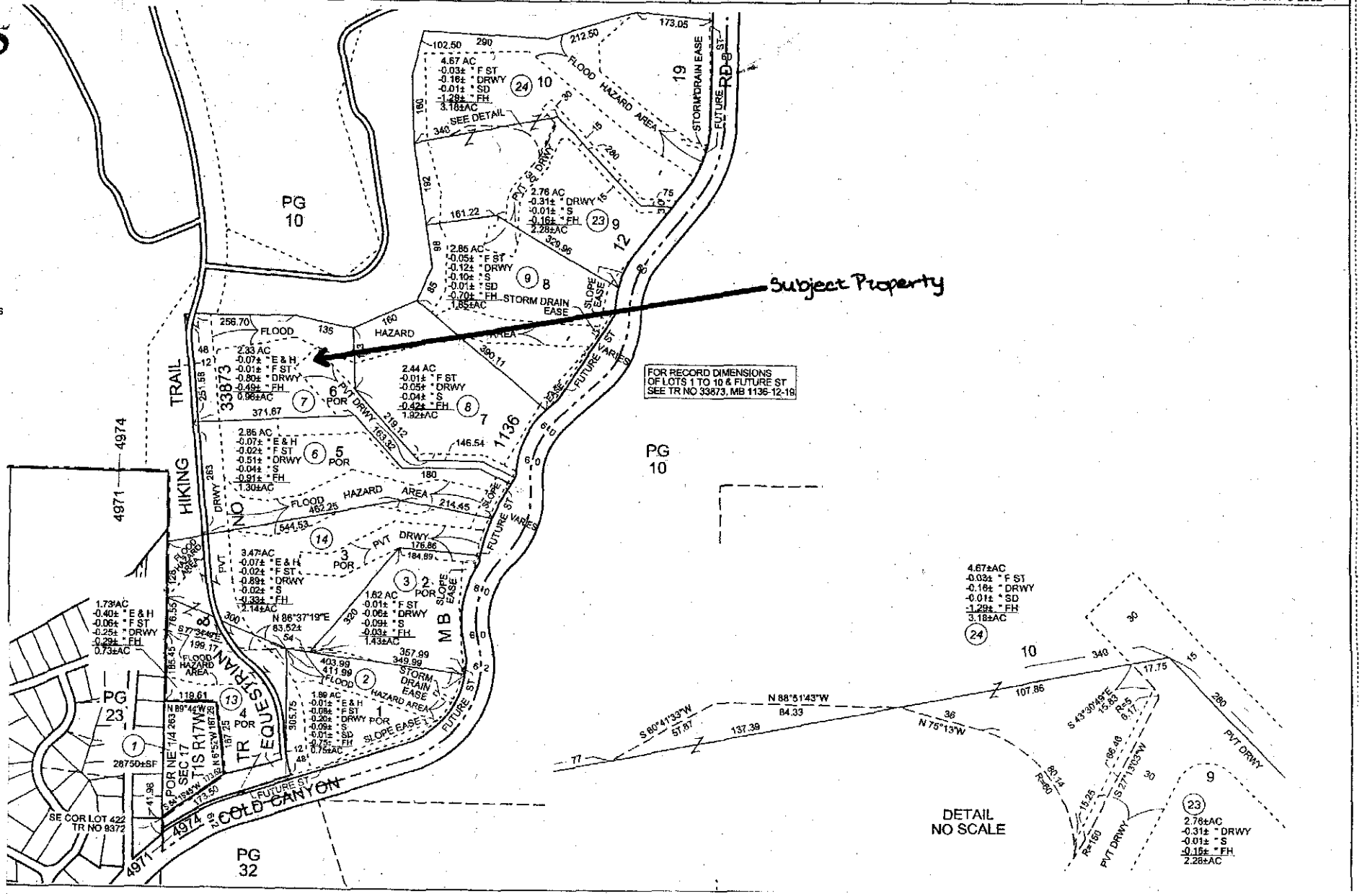


Exhibit 2
CCC-09-CD-04
CCC-09-RO-03

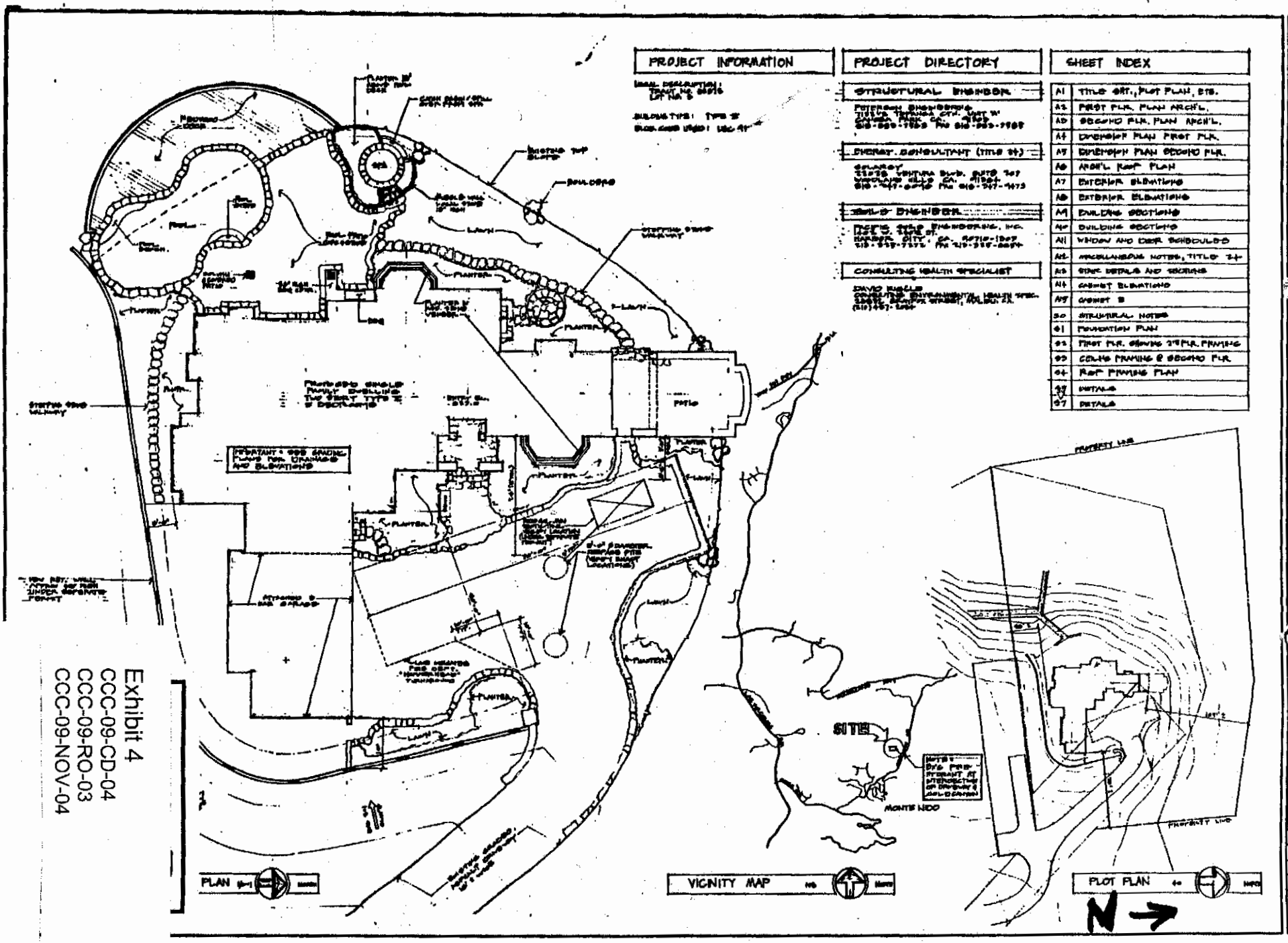
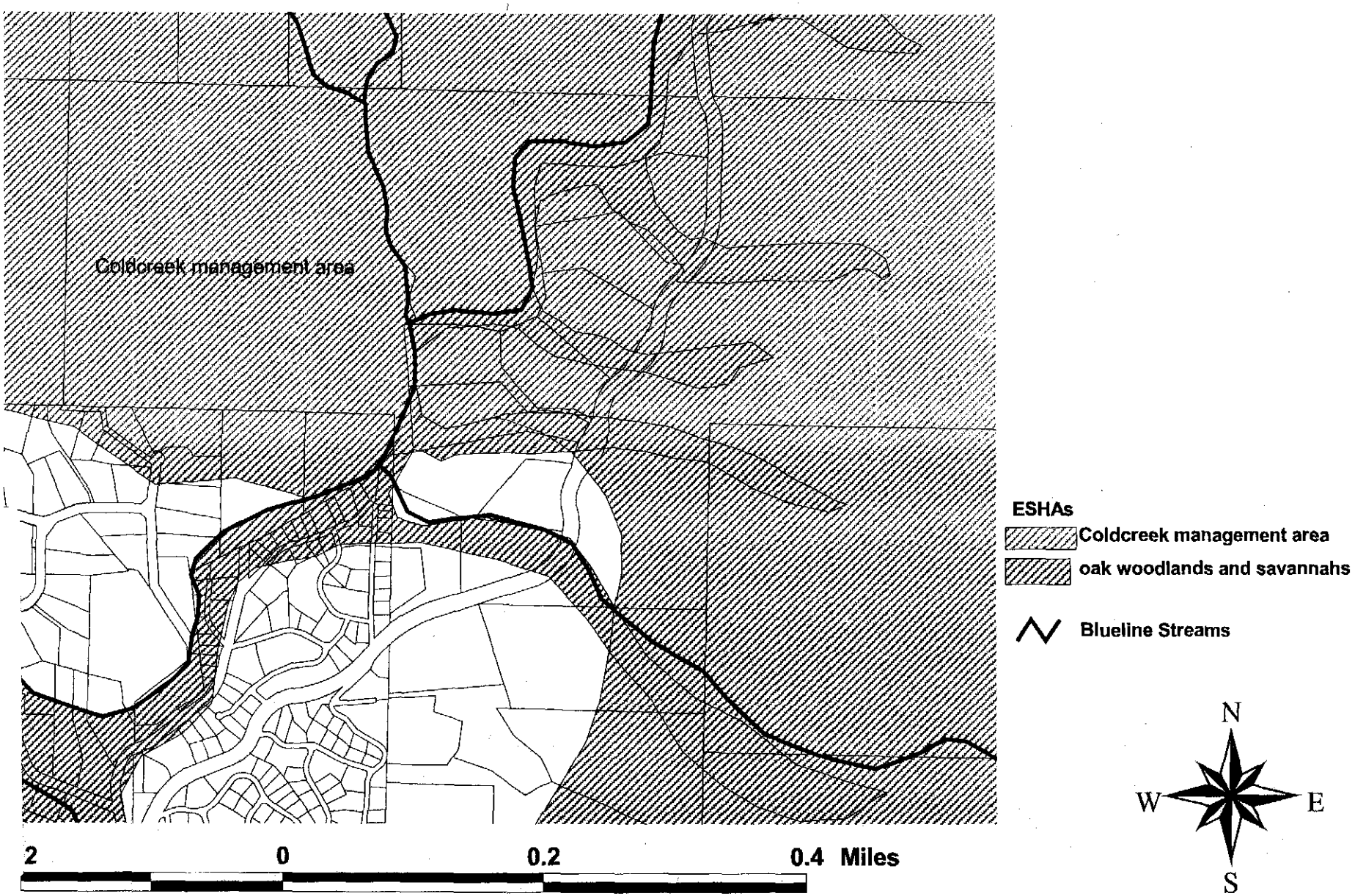


Exhibit 4
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

ENVIRONMENTALLY SENSITIVE RESOURCES



Fro[illegible]e Malibu/Santa Monica Mountains Land Use Plan c[illegible]ed 12/16/86

Exhibit 5
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

MEMORANDUM

FROM: John Dixon, Ph.D.
Ecologist / Wetland Coordinator

TO: Ventura Staff

SUBJECT: Designation of ESHA in the Santa Monica Mountains

DATE: March 25, 2003

In the context of the Malibu LCP, the Commission found that the Mediterranean Ecosystem in the Santa Mountains is rare, and especially valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, areas of undeveloped native habitat in the Santa Monica Mountains that are large and relatively unfragmented may meet the definition of ESHA by virtue of their valuable roles in that ecosystem, regardless of their relative rarity throughout the state. This is the only place in the coastal zone where the Commission has recognized chaparral as meeting the definition of ESHA. The scientific background presented herein for ESHA analysis in the Santa Monica Mountains is adapted from the Revised Findings for the Malibu LCP that the Commission adopted on February 6, 2003.

For habitats in the Santa Monica Mountains, particularly coastal sage scrub and chaparral, there are three site-specific tests to determine whether an area is ESHA because of its especially valuable role in the ecosystem. First, is the habitat properly identified, for example as coastal sage scrub or chaparral? The requisite information for this test generally should be provided by a site-specific biological assessment. Second, is the habitat largely undeveloped and otherwise relatively pristine? Third, is the habitat part of a large, contiguous block of relatively pristine native vegetation? This should be documented with an aerial photograph from our mapping unit (with the site delineated) and should be attached as an exhibit to the staff report. For those habitats that are absolutely rare or that support individual rare species, it is not necessary to find that they are relatively pristine, and are neither isolated nor fragmented.

Designation of Environmentally Sensitive Habitat in the Santa Monica Mountains

The Coastal Act provides a definition of "environmentally sensitive area" as: "Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments" (Section 30107.5).

Exhibit 6
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

There are three important elements to the definition of ESHA. First, a geographic area can be designated ESHA either because of the presence of individual species of plants or animals or because of the presence of a particular habitat. Second, in order for an area to be designated as ESHA, the species or habitat must be either rare or it must be especially valuable. Finally, the area must be easily disturbed or degraded by human activities.

The first test of ESHA is whether a habitat or species is rare. Rarity can take several forms, each of which is important. Within the Santa Monica Mountains, rare species and habitats often fall within one of two common categories. Many rare species or habitats are globally rare, but locally abundant. They have suffered severe historical declines in overall abundance and currently are reduced to a small fraction of their original range, but where present may occur in relatively large numbers or cover large local areas. This is probably the most common form of rarity for both species and habitats in California and is characteristic of coastal sage scrub, for example. Some other habitats are geographically widespread, but occur everywhere in low abundance. California's native perennial grasslands fall within this category.

A second test for ESHA is whether a habitat or species is especially valuable. Areas may be valuable because of their "special nature," such as being an unusually pristine example of a habitat type, containing an unusual mix of species, supporting species at the edge of their range, or containing species with extreme variation. For example, reproducing populations of valley oaks are not only increasingly rare, but their southernmost occurrence is in the Santa Monica Mountains. Generally, however, habitats or species are considered valuable because of their special "role in the ecosystem." For example, many areas within the Santa Monica Mountains may meet this test because they provide habitat for endangered species, protect water quality, provide essential corridors linking one sensitive habitat to another, or provide critical ecological linkages such as the provision of pollinators or crucial trophic connections. Of course, all species play a role in their ecosystem that is arguably "special." However, the Coastal Act requires that this role be "especially valuable." This test is met for relatively pristine areas that are integral parts of the Santa Monica Mountains Mediterranean ecosystem because of the demonstrably rare and extraordinarily special nature of that ecosystem as detailed below.

Finally, ESHAs are those areas that could be easily disturbed or degraded by human activities and developments. Within the Santa Monica Mountains, as in most areas of southern California affected by urbanization, all natural habitats are in grave danger of direct loss or significant degradation as a result of many factors related to anthropogenic changes.

Ecosystem Context of the Habitats of the Santa Monica Mountains

The Santa Monica Mountains comprise the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem in coastal southern California.

California's coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues in just a few areas of the world with similar climate. Mediterranean ecosystems with their wet winters and warm dry summers are only found in five localities (the Mediterranean coast, California, Chile, South Africa, and south and southwest Australia). Throughout the world, this ecosystem with its specially adapted vegetation and wildlife has suffered severe loss and degradation from human development. Worldwide, only 18 percent of the Mediterranean community type remains undisturbed[1]. However, within the Santa Monica Mountains, this ecosystem is remarkably intact despite the fact that it is closely surrounded by some 17 million people. For example, the 150,000 acres of the Santa Monica Mountains National Recreation Area, which encompasses most of the Santa Monica Mountains, was estimated to be 90 percent free of development in 2000[2]. Therefore, this relatively pristine area is both large and mostly unfragmented, which fulfills a fundamental tenet of conservation biology[3]. The need for large contiguous areas of natural habitat in order to maintain critical ecological processes has been emphasized by many conservation biologists[4].

In addition to being a large single expanse of land, the Santa Monica Mountains ecosystem is still connected, albeit somewhat tenuously, to adjacent, more inland ecosystems[5]. Connectivity among habitats within an ecosystem and connectivity among ecosystems is very important for the preservation of species and ecosystem integrity. In a recent statewide report, the California Resources Agency[6] identified wildlife corridors and habitat connectivity as the top conservation priority. In a letter to governor Gray Davis, sixty leading environmental scientists have endorsed the

---

[1] National Park Service. 2000. Draft general management plan & environmental impact statement. Santa Monica Mountains National Recreation Area – California.

[2] Ibid.

[3] Harris, L. D. 1988. Edge effects and conservation of biotic diversity. Conserv. Biol. 330-332. Soule, M. E, D. T. Bolger, A. C. Alberts, J. Wright, M. Sorice and S. Hill. 1988. Reconstructed dynamics of rapid extinctions of chaparral-requiring birds in urban habitat islands. Conserv. Biol. 2: 75-92. Yahner, R. H. 1988. Changes in wildlife communities near edges. Conserv. Biol. 2:333-339. Murphy, D. D. 1989. Conservation and confusion: Wrong species, wrong scale, wrong conclusions. Conservation Biol. 3:82-84.

[4] Crooks, K. 2000. Mammalian carnivores as target species for conservation in Southern California. p. 105-112 *in*: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Sauvajot, R. M., E. C. York, T. K. Fuller, H. Sharon Kim, D. A. Kamradt and R. K. Wayne. 2000. Distribution and status of carnivores in the Santa Monica Mountains, California: Preliminary results from radio telemetry and remote camera surveys. p 113-123 *in*: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Beier, P. and R. F. Noss. 1998. Do habitat corridors provide connectivity? Conserv. Biol. 12:1241-1252. Beier, P. 1996. Metapopulation models, tenacious tracking and cougar conservation. *In*: Metapopulations and Wildlife Conservation, ed. D. R. McCullough. Island Press, Covelo, California, 429p.

[5] The SMM area is linked to larger natural inland areas to the north through two narrow corridors: 1) the Conejo Grade connection at the west end of the Mountains and 2) the Simi Hills connection in the central region of the SMM (from Malibu Creek State Park to the Santa Susanna Mountains).

[6] California Resources Agency. 2001. Missing Linkages: Restoring Connectivity to the California Landscape. California Wilderness Coalition, Calif. Dept of Parks & Recreation, USGS, San Diego Zoo and The Nature Conservancy. Available at: http://www.calwild.org/pubs/reports/linkages/index.htm

conclusions of that report[7]. The chief of natural resources at the California Department of Parks and Recreation has identified the Santa Monica Mountains as an area where maintaining connectivity is particularly important[8].

The species most directly affected by large scale connectivity are those that require large areas or a variety of habitats, e.g., gray fox, cougar, bobcat, badger, steelhead trout, and mule deer[9]. Large terrestrial predators are particularly good indicators of habitat connectivity and of the general health of the ecosystem[10]. Recent studies show that the mountain lion, or cougar, is the most sensitive indicator species of habitat fragmentation, followed by the spotted skunk and the bobcat[11]. Sightings of cougars in both inland and coastal areas of the Santa Monica Mountains[12] demonstrate their continued presence. Like the "canary in the mineshaft," an indicator species like this is good evidence that habitat connectivity and large scale ecological function remains in the Santa Monica Mountains ecosystem.

The habitat integrity and connectivity that is still evident within the Santa Monica Mountains is extremely important to maintain, because both theory and experiments over 75 years in ecology confirm that large spatially connected habitats tend to be more stable and have less frequent extinctions than habitats without extended spatial structure[13]. Beyond simply destabilizing the ecosystem, fragmentation and disturbance

---

[7] Letters received and included in the September 2002 staff report for the Malibu LCP.

[8] Schoch, D. 2001. Survey lists 300 pathways as vital to state wildlife. Los Angeles Times. August 7, 2001.

[9] Martin, G. 2001. Linking habitat areas called vital for survival of state's wildlife Scientists map main migration corridors. San Francisco Chronicle, August 7, 2001.

[10] Noss, R. F., H. B. Quigley, M. G. Hornocker, T. Merrill and P. C. Paquet. 1996. Conservation biology and carnivore conservation in the Rocky Mountains. Conerv. Biol. 10: 949-963. Noss, R. F. 1995. Maintaining ecological integrity in representative reserve networks. World Wildlife Fund Canada.

[11] Sauvajot, R. M., E. C. York, T. K. Fuller, H. Sharon Kim, D. A. Kamradt and R. K. Wayne. 2000. Distribution and status of carnivores in the Santa Monica Mountains, California: Preliminary results from radio telemetry and remote camera surveys. p 113-123 in: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62. Beier, P. 1996. Metapopulation models, tenacious tracking and cougar conservation. In: Metapopulations and Wildlife Conservation, ed. D. R. McCullough. Island Press, Covelo, California, 429p.

[12] Recent sightings of mountain lions include: Temescal Canyon (pers. com., Peter Brown, Facilities Manager, Calvary Church), Topanga Canyon (pers. com., Marti Witter, NPS), Encinal and Trancas Canyons (pers. com., Pat Healy), Stump Ranch Research Center (pers. com., Dr. Robert Wayne, Dept. of Biology, UCLA). In May of 2002, the NPS *photographed* a mountain lion at a trip camera on the Back Bone Trail near Castro Crest – Seth Riley, Eric York and Dr. Ray Sauvajot, National Park Service, SMMNRA.

[13] Gause, G. F. 1934. The struggle for existence. Balitmore, William and Wilkins 163 p. (also reprinted by Hafner, N.Y. 1964). Gause, G. F., N. P. Smaragdova and A. A. Witt. 1936. Further studies of interaction between predators and their prey. J. Anim. Ecol. 5:1-18. Huffaker, C. B. 1958. Experimental studies on predation: dispersion factors and predator-prey oscillations. Hilgardia 27:343-383. Luckinbill, L. S. 1973. Coexistence in laboratory populations of *Paramecium aurelia* and its predator *Didinium nasutum*. Ecology 54:1320-1327. Allen, J. C., C. C. Brewster and D. H. Slone. 2001. Spatially explicit ecological models: A spatial convolution approach. Chaos, Solitons and Fractals. 12:333-347.

can even cause unexpected and irreversible changes to new and completely different kinds of ecosystems (habitat conversion)[14].

As a result of the pristine nature of large areas of the Santa Monica Mountains and the existence of large, unfragmented and interconnected blocks of habitat, this ecosystem continues to support an extremely diverse flora and fauna. The observed diversity is probably a function of the diversity of physical habitats. The Santa Monica Mountains have the greatest geological diversity of all major mountain ranges within the transverse range province. According to the National Park Service, the Santa Monica Mountains contain 40 separate watersheds and over 170 major streams with 49 coastal outlets[15]. These streams are somewhat unique along the California coast because of their topographic setting. As a "transverse" range, the Santa Monica Mountains are oriented in an east-west direction. As a result, the south-facing riparian habitats have more variable sun exposure than the east-west riparian corridors of other sections of the coast. This creates a more diverse moisture environment and contributes to the higher biodiversity of the region. The many different physical habitats of the Santa Monica Mountains support at least 17 native vegetation types[16] including the following habitats considered sensitive by the California Department of Fish and Game: native perennial grassland, coastal sage scrub, red-shank chaparral, valley oak woodland, walnut woodland, southern willow scrub, southern cottonwood-willow riparian forest, sycamore-alder woodland, oak riparian forest, coastal salt marsh, and freshwater marsh. Over 400 species of birds, 35 species of reptiles and amphibians, and more than 40 species of mammals have been documented in this diverse ecosystem. More than 80 sensitive species of plants and animals (listed, proposed for listing, or species of concern) are known to occur or have the potential to occur within the Santa Monica Mountains Mediterranean ecosystem.

The Santa Monica Mountains are also important in a larger regional context. Several recent studies have concluded that the area of southern California that includes the Santa Monica Mountains is among the most sensitive in the world in terms of the number of rare endemic species, endangered species and habitat loss. These studies have designated the area to be a local hot-spot of endangerment in need of special protection[17].

Therefore, the Commission finds that the Santa Monica Mountains ecosystem is itself rare and especially valuable because of its special nature as the largest, most pristine,

---

[14] Scheffer, M., S. Carpenter, J. A. Foley, C. Folke and B. Walker. 2001. Catastrophic shifts in ecosystems. Nature 413:591-596.

[15] NPS. 2000. op.cit.

[16] From the NPS report (2000 op. cit.) that is based on the older Holland system of subjective classification. The data-driven system of Sawyer and Keeler-Wolf results in a much larger number of distinct "alliances" or vegetation types.

[17] Myers, N. 1990. The biodiversity challenge: Expanded hot-spots analysis. Environmentalist 10:243-256. Myers, N., R. A. Mittermeier, C. G. Mittermeier, G. A. B. da Fonseca and J. A. Kent. 2000. Biodiversity hot-spots for conservation priorities. Nature 403:853-858. Dobson, A. P., J. P. Rodriguez, W. M. Roberts and D. S. Wilcove. 1997. Geographic distribution of endangered species in the United States. Science 275:550-553.

physically complex, and biologically diverse example of a Mediterranean ecosystem in coastal southern California. The Commission further finds that because of the rare and special nature of the Santa Monica Mountains ecosystem, the ecosystem roles of substantially intact areas of the constituent plant communities discussed below are "especially valuable" under the Coastal Act.

Major Habitats within the Santa Monica Mountains

The most recent vegetation map that is available for the Santa Monica Mountains is the map that was produced for the National Park Service in the mid-1990s using 1993 satellite imagery supplemented with color and color infrared aerial imagery from 1984, 1988, and 1994 and field review[18]. The minimum mapping unit was 5 acres. For that map, the vegetation was mapped in very broad categories, generally following a vegetation classification scheme developed by Holland[19]. Because of the mapping methods used the degree of plant community complexity in the landscape is not represented. For example, the various types of "ceanothus chaparral" that have been documented were lumped under one vegetation type referred to as "northern mixed chaparral." Dr. Todd Keeler-Wolf of the California Department of Fish and Game is currently conducting a more detailed, quantitative vegetation survey of the Santa Monica Mountains.

The National Park Service map can be used to characterize broadly the types of plant communities present. The main generic plant communities present in the Santa Monica Mountains[20] are: coastal sage scrub, chaparral, riparian woodland, coast live oak woodland, and grasslands.

Riparian Woodland

Some 49 streams connect inland areas with the coast, and there are many smaller drainages as well, many of which are "blue line." Riparian woodlands occur along both perennial and intermittent streams in nutrient-rich soils. Partly because of its multi-layered vegetation, the riparian community contains the greatest overall biodiversity of all the plant communities in the area[21]. At least four types of riparian communities are discernable in the Santa Monica Mountains: walnut riparian areas, mulefat-dominated riparian areas, willow riparian areas and sycamore riparian woodlands. Of these, the

[18] Franklin, J. 1997. Forest Service Southern California Mapping Project, Santa Monica Mountains National Recreation Area, Task 11 Description and Results, Final Report. June 13, 1997, Dept. of Geography, San Diego State University, USFS Contract No. 53-91S8-3-TM45.
[19] Holland R. F. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. State of California, The Resources Agency, Dept. of Fish and Game, Natural Heritage Division, Sacramento, CA. 95814.
[20] National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000. (Fig. 11 in this document.)
[21] Ibid.

sycamore riparian woodland is the most diverse riparian community in the area. In these habitats, the dominant plant species include arroyo willow, California black walnut, sycamore, coast live oak, Mexican elderberry, California bay laurel, and mule fat. Wildlife species that have been observed in this community include least Bell's vireo (a State and federally listed species), American goldfinches, black phoebes, warbling vireos, bank swallows (State listed threatened species), song sparrows, belted kingfishers, raccoons, and California and Pacific tree frogs.

Riparian communities are the most species-rich to be found in the Santa Monica Mountains. Because of their multi-layered vegetation, available water supply, vegetative cover and adjacency to shrubland habitats, they are attractive to many native wildlife species, and provide essential functions in their lifecycles[22]. During the long dry summers in this Mediterranean climate, these communities are an essential refuge and oasis for much of the areas' wildlife.

Riparian habitats and their associated streams form important connecting links in the Santa Monica Mountains. These habitats connect all of the biological communities from the highest elevation chaparral to the sea with a unidirectional flowing water system, one function of which is to carry nutrients through the ecosystem to the benefit of many different species along the way.

The streams themselves provide refuge for sensitive species including: the coast range newt, the Pacific pond turtle, and the steelhead trout. The coast range newt and the Pacific pond turtle are California Species of Special Concern and are proposed for federal listing[23], and the steelhead trout is federally endangered. The health of the streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat, shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure.

The importance of the connectivity between riparian areas and adjacent habitats is illustrated by the Pacific pond turtle and the coast range newt, both of which are sensitive and both of which require this connectivity for their survival. The life history of the Pacific pond turtle demonstrates the importance of riparian areas and their associated watersheds for this species. These turtles require the stream habitat during the wet season. However, recent radio tracking work[24] has found that although the Pacific pond turtle spends the wet season in streams, it also requires upland habitat for refuge during the dry season. Thus, in coastal southern California, the Pacific pond turtle requires both streams and intact adjacent upland habitats such as coastal sage

[22] Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

[23] USFWS. 1989. Endangered and threatened wildlife and plants; animal notice of review. Fed. Reg. 54:554-579. USFWS. 1993. Endangered and threatened wildlife and plants; notice of 1-year petition finding on the western pond turtle. Fed. Reg. 58:42717-42718.

[24] Rathbun, G.B., N.J. Scott and T.G. Murphy. 2002. Terrestrial habitat use by Pacific pond turtle in a Mediterranean climate. Southwestern Naturalist. (*in Press*).

scrub, woodlands or chaparral as part of their normal life cycle. The turtles spend about four months of the year in upland refuge sites located an average distance of 50 m (but up to 280 m) from the edge of the creek bed. Similarly, nesting sites where the females lay eggs are also located in upland habitats an average of 30 m (but up to 170 m) from the creek. Occasionally, these turtles move up to 2 miles across upland habitat[25]. Like many species, the pond turtle requires both stream habitats and the upland habitats of the watershed to complete its normal annual cycle of behavior. Similarly, the coast range newt has been observed to travel hundreds of meters into upland habitat and spend about ten months of the year far from the riparian streambed[26]. They return to the stream to breed in the wet season, and they are therefore another species that requires both riparian habitat and adjacent uplands for their survival.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost[27]. Writing at the same time as Faber, Bowler asserted that, *"[t]here is no question that riparian habitat in southern California is endangered."*[28] In the intervening 13 years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California.

In addition to direct habitat loss, streams and riparian areas have been degraded by the effects of development. For example, the coast range newt, a California Species of Special Concern has suffered a variety of impacts from human-related disturbances[29]. Human-caused increased fire frequency has resulted in increased sedimentation rates, which exacerbates the cannibalistic predation of adult newts on the larval stages.[30] In addition impacts from non-native species of crayfish and mosquito fish have also been documented. When these non-native predators are introduced, native prey organisms are exposed to new mortality pressures for which they are not adapted. Coast range newts that breed in the Santa Monica Mountain streams do not appear to have adaptations that permit co-occurrence with introduced mosquito fish and crayfish[31]. These introduced predators have eliminated the newts from streams where they previously occurred by both direct predation and suppression of breeding.

---

[25] Testimony by R. Dagit, Resource Conservation District of the Santa Monica Mountains at the CCC Habitat Workshop on June 13, 2002.

[26] Dr, Lee Kats, Pepperdine University, personal communication to Dr J. Allen, CCC.

[27] Faber, P.A., E, Keller, A. Sands and B.M. Massey. 1989. The ecology of riparian habitats of the southern California coastal region: a community profile. U.S. Fish and Wildlife Service Biological Report 85(7.27) 152pp.

[28] Bowler, P.A. 1989. Riparian woodland: An endangered habitat in southern California. Pp 80-97 *in* Schoenherr, A.A. (ed.) Endangered plant communities of southern California. Botanists Special Publication No. 3.

[29] Gamradt, S.C., L.B. Kats and C.B. Anzalone. 1997. Aggression by non-native crayfish deters breeding in California newts. Conservation Biology 11(3):793-796.

[30] Kerby, L.J., and L.B. Kats. 1998. Modified interactions between salamander life stages caused by wildfire-induced sedimentation. Ecology 79(2):740-745.

[31] Gamradt, S.C. and L.B. Kats. 1996. Effect of introduced crayfish and mosquitofish on California newts. Conservation Biology 10(4):1155-1162.

Therefore, because of the essential role that riparian plant communities play in maintaining the biodiversity of the Santa Monica Mountains, because of the historical losses and current rarity of these habitats in southern California, and because of their extreme sensitivity to disturbance, the native riparian habitats in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

Coastal Sage Scrub and Chaparral

Coastal sage scrub and chaparral are often lumped together as "shrublands" because of their roughly similar appearance and occurrence in similar and often adjacent physical habitats. In earlier literature, these vegetation associations were often called soft chaparral and hard chaparral, respectively. "Soft" and "hard" refers to differences in their foliage associated with different adaptations to summer drought. Coastal sage scrub is dominated by soft-leaved, generally low-growing aromatic shrubs that die back and drop their leaves in response to drought. Chaparral is dominated by taller, deeper-rooted evergreen shrubs with hard, waxy leaves that minimize water loss during drought.

The two vegetation types are often found interspersed with each other. Under some circumstances, coastal sage scrub may even be successional to chaparral, meaning that after disturbance, a site may first be covered by coastal sage scrub, which is then replaced with chaparral over long periods of time.[32] The existing mosaic of coastal sage scrub and chaparral is the result of a dynamic process that is a function of fire history, recent climatic conditions, soil differences, slope, aspect and moisture regime, and the two habitats should not be thought of as completely separate and unrelated entities but as different phases of the same process[33]. The spatial pattern of these vegetation stands at any given time thus depends on both local site conditions and on history (e.g., fire), and is influenced by both natural and human factors.

In lower elevation areas with high fire frequency, chaparral and coastal sage scrub may be in a state of flux, leading one researcher to describe the mix as a "coastal sage-chaparral subclimax."[34] Several other researchers have noted the replacement of chaparral by coastal sage scrub, or coastal sage scrub by chaparral depending on fire history.[35] In transitional and other settings, the mosaic of chaparral and coastal sage

[32] Cooper, W.S. 1922. The broad-sclerophyll vegetation of California. Carnegie Institution of Washington Publication 319. 124 pp.
[33] Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. (See attached comment document in Appendix).
[34] Hanes, T.L. 1965. Ecological studies on two closely related chaparral shrubs in southern California. Ecological Monographs 41:27-52.
[35] Gray, K.L. 1983. Competition for light and dynamic boundary between chaparral and coastal sage scrub. Madrono 30(1):43-49. Zedler, P.H., C.R. Gautier and G.S. McMaster. 1983. Vegetation change in response to extreme events: The effect of a short interval between fires in California chaparral and coastal sage scrub. Ecology 64(4): 809-818.

scrub enriches the seasonal plant resource base and provides additional habitat variability and seasonality for the many species that inhabit the area.

Relationships Among Coastal Sage Scrub, Chaparral and Riparian Communities

Although the constituent communities of the Santa Monica Mountains Mediterranean ecosystem can be defined and distinguished based on species composition, growth habits, and the physical habitats they characteristically occupy, they are not independent entities ecologically. Many species of plants, such as black sage, and laurel sumac, occur in more than one plant community and many animals rely on the predictable mix of communities found in undisturbed Mediterranean ecosystems to sustain them through the seasons and during different portions of their life histories.

Strong evidence for the interconnectedness between chaparral, coastal scrub and other habitats is provided by "opportunistic foragers" (animals that follow the growth and flowering cycles across these habitats). Coastal scrub and chaparral flowering and growth cycles differ in a complimentary and sequential way that many animals have evolved to exploit. Whereas coastal sage scrub is shallow-rooted and responds quickly to seasonal rains, chaparral plants are typically deep-rooted having most of their flowering and growth later in the rainy season after the deeper soil layers have been saturated[36]. New growth of chaparral evergreen shrubs takes place about four months later than coastal sage scrub plants and it continues later into the summer[37]. For example, in coastal sage scrub, California sagebrush flowers and grows from August to February and coyote bush flowers from August to November[38]. In contrast, chamise chaparral and bigpod ceanothus flower from April to June, buck brush ceanothus flowers from February to April, and hoaryleaf ceanothus flowers from March to April.

Many groups of animals exploit these seasonal differences in growth and blooming period. The opportunistic foraging insect community (e.g., honeybees, butterflies and moths) tends to follow these cycles of flowering and new growth, moving from coastal sage scrub in the early rainy season to chaparral in the spring[39]. The insects in turn are followed by insectivorous birds such as the blue-gray gnatcatcher[40], bushtit, cactus wren, Bewick's wren and California towhee. At night bats take over the role of daytime insectivores. At least 12 species of bats (all of which are considered sensitive) occur in

[36] DeSimone, S. 2000. California's coastal sage scrub. Fremontia 23(4):3-8. Mooney, H.A. 1988. Southern coastal scrub. Chap. 13 *in* Barbour, M.G. and J. Majors; Eds. 1988. Terrestrial vegetation of California, 2nd Edition. Calif. Native Plant Soc. Spec. Publ. #9.
[37] Schoenherr, A. A. 1992. A natural history of California. University of California Press, Berkeley. 772p.
[38] Dale, N. 2000. Flowering plants of the Santa Monica Mountains. California Native Plant Society, 1722 J Street, Suite 17, Sacramento, CA 95814.
[39] Ballmer, G. R. 1995. What's bugging coastal sage scrub. Fremontia 23(4):17-26.
[40] Root, R. B. 1967. The niche exploitation pattern of the blue-gray gnatcatcher. Ecol. Monog.37:317-350.

the Santa Monica Mountains[41]. Five species of hummingbirds also follow the flowering cycle[42].

Many species of 'opportunistic foragers', which utilize several different community types, perform important ecological roles during their seasonal movements. The scrub jay is a good example of such a species. The scrub jay is an omnivore and forages in coastal sage scrub, chaparral, and oak woodlands for insects, berries and notably acorns. Its foraging behavior includes the habit of burying acorns, usually at sites away from the parent tree canopy. Buried acorns have a much better chance of successful germination (about two-fold) than exposed acorns because they are protected from desiccation and predators. One scrub jay will bury approximately 5000 acorns in a year. The scrub jay therefore performs the function of greatly increasing recruitment and regeneration of oak woodland, a valuable and sensitive habitat type[43].

Like the scrub jay, most of the species of birds that inhabit the Mediterranean ecosystem in the Santa Monica Mountains require more than one community type in order to flourish. Many species include several community types in their daily activities. Other species tend to move from one community to another seasonally. The importance of maintaining the integrity of the multi-community ecosystem is clear in the following observations of Dr. Hartmut Walter of the University of California at Los Angeles:

> "Bird diversity is directly related to the habitat mosaic and topographic diversity of the Santa Monicas. Most bird species in this bio-landscape require more than one habitat for survival and reproduction." "A significant proportion of the avifauna breeds in the wooded canyons of the Santa Monicas. Most of the canyon breeders forage every day in the brush- and grass-covered slopes, ridges and mesas. They would not breed in the canyons in the absence of the surrounding shrublands. Hawks, owls, falcons, orioles, flycatchers, woodpeckers, warblers, hummingbirds, etc. belong to this group. Conversely, some of the characteristic chaparral birds such as thrashers, quails, and wrentits need the canyons for access to shelter, protection from fire, and water. The regular and massive movement of birds between riparian corridors and adjacent shrublands has been demonstrated by qualitative and quantitative observations by several UCLA students[44]."

Thus, the Mediterranean ecosystem of the Santa Monica Mountains is a mosaic of vegetation types linked together ecologically. The high biodiversity of the area results

---

[41] Letter from Dr. Marti Witter, NPS, dated Sept. 13, 2001, in letters received and included in the September 2002 staff report for the Malibu LCP.

[42] National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

[43] Borchert, M. I., F. W. Davis, J. Michaelsen and L. D. Oyler. 1989. Interactions of factors affecting seedling recruitment of blue oak (*Quercus douglasii*) in California. Ecology 70:389-404. Bossema, I. 1979. Jays and oaks: An eco-ethological study of a symbiosis. Behavior 70:1-118. Schoenherr, A. A. 1992. A natural history of California. University of California Press, Berkeley. 772p.

[44] Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

from both the diversity and the interconnected nature of this mosaic. Most raptor species, for example, require large areas and will often require different habitats for perching, nesting and foraging. Fourteen species of raptors (13 of which are considered sensitive) are reported from the Santa Monica Mountains. These species utilize a variety of habitats including rock outcrops, oak woodlands, riparian areas, grasslands, chaparral, coastal sage scrub, estuaries and freshwater lakes[45].

When the community mosaic is disrupted and fragmented by development, many chaparral-associated native bird species are impacted. In a study of landscape-level fragmentation in the Santa Monica Mountains, Stralberg[46] found that the ash-throated flycatcher, Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, and California towhee all decreased in numbers as a result of urbanization. Soule[47] observed similar effects of fragmentation on chaparral and coastal sage scrub birds in the San Diego area.

In summary, all of the vegetation types in this ecosystem are strongly linked by animal movement and foraging. Whereas classification and mapping of vegetation types may suggest a snapshot view of the system, the seasonal movements and foraging of animals across these habitats illustrates the dynamic nature and vital connections that are crucial to the survival of this ecosystem.

Coastal Sage Scrub

"Coastal sage scrub" is a generic vegetation type that is inclusive of several subtypes[48]. In the Santa Monica Mountains, coastal sage scrub is mostly of the type termed "Venturan Coastal Sage Scrub." In general, coastal sage scrub is comprised of dominant species that are semi-woody and low-growing, with shallow, dense roots that enable them to respond quickly to rainfall. Under the moist conditions of winter and spring, they grow quickly, flower, and produce light, wind-dispersed seeds, making them good colonizers following disturbance. These species cope with summer drought by dying back, dropping their leaves or producing a smaller summer leaf in order to reduce water loss. Stands of coastal sage scrub are much more open than chaparral and contain a greater admixture of herbaceous species. Coastal sage scrub is generally restricted to drier sites, such as low foothills, south-facing slopes, and shallow soils at higher elevations.

---

[45] National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701. *and* Letter from Dr. Marti Witter, NPS, Dated Sept. 13, 2001, in letters received and included in the September 2002 staff report for the Malibu LCP.

[46] Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: A Santa Monica Mountains case study. p 125-136 *in*: Keeley, J. E., M. Baer-Keeley and C. J. Fotheringham (eds), 2nd Interface Between Ecology and Land Development in California, U.S. Geological Survey Open-File Report 00-62.

[47] Soule, M. E, D. T. Bolger, A. C. Alberts, J. Wright, M. Sorice and S. Hill. 1988. Reconstructed dynamics of rapid extinctions of chaparral-requiring birds in urban habitat islands. Conserv. Biol. 2: 75-92.

[48] Kirkpatrick, J.B. and C.F. Hutchinson. 1977. The community composition of Californian coastal sage scrub. Vegetatio 35:21-33; Holland, 1986. op.cit.; Sawyer and Keeler-Wolf, 1995, op.cit.

The species composition and structure of individual stands of coastal sage scrub depend on moisture conditions that derive from slope, aspect, elevation and soil type. Drier sites are dominated by more drought-resistant species (e.g., California sagebrush, coast buckwheat, and *Opuntia* cactus). Where more moisture is available (e.g., north-facing slopes), larger evergreen species such as toyon, laurel sumac, lemonade berry, and sugar bush are common. As a result, there is more cover for wildlife, and movement of large animals from chaparral into coastal sage scrub is facilitated in these areas. Characteristic wildlife in this community includes Anna's hummingbirds, rufous-sided towhees, California quail, greater roadrunners, Bewick's wrens, coyotes, and coast horned lizards[49], but most of these species move between coastal sage scrub and chaparral during their daily activities or on a seasonal basis.

Of the many important ecosystem roles performed by the coastal sage scrub community, five are particularly important in the Santa Monica Mountains. Coastal sage scrub provides critical linkages between riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for local endemics, supports rare species that are in danger of extinction, and reduces erosion, thereby protecting the water quality of coastal streams.

Riparian woodlands are primary contributors to the high biodiversity of the Santa Monica Mountains. The ecological integrity of those riparian habitats not only requires wildlife dispersal along the streams, but also depends on the ability of animals to move from one riparian area to another. Such movement requires that the riparian corridors be connected by suitable habitat. In the Santa Monica Mountains, coastal sage scrub and chaparral provide that function. Significant development in coastal sage scrub would reduce the riparian corridors to linear islands of habitat with severe edge effects[50], reduced diversity, and lower productivity.

Most wildlife species and many species of plants utilize several types of habitat. Many species of animals endemic to Mediterranean habitats move among several plant communities during their daily activities and many are reliant on different communities either seasonally or during different stages of the their life cycle. Without an intact mosaic of coastal sage scrub, chaparral, and riparian community types, many species will not thrive. Specific examples of the importance of interconnected communities, or habitats, were provided in the discussion above. This is an essential ecosystem role of coastal sage scrub.

A characteristic of the coastal sage scrub vegetation type is a high degree of endemism. This is consonant with Westman's observation that 44 percent of the species he sampled in coastal sage scrub occurred at only one of his 67 sites, which were

---

[49] National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.

[50] Environmental impacts are particularly severe at the interface between development and natural habitats. The greater the amount of this "edge" relative to the area of natural habitat, the worse the impact.

distributed from the San Francisco Bay area to Mexico[51]. Species with restricted distributions are by nature more susceptible to loss or degradation of their habitat. Westman said of this unique and local aspect of coastal sage scrub species in California:

> "While there are about 50 widespread sage scrub species, more than half of the 375 species encountered in the present study of the sage scrub flora are rare in occurrence within the habitat range. In view of the reduction of the area of coastal sage scrub in California to 10-15% of its former extent and the limited extent of preserves, measures to conserve the diversity of the flora are needed."[52]

Coastal sage scrub in southern California provides habitat for about 100 rare species[53], many of which are also endemic to limited geographic regions[54]. In the Santa Monica Mountains, rare animals that inhabit coastal sage scrub[55] include the Santa Monica shieldback katydid, silvery legless lizard, coastal cactus wren, Bell's sparrow, San Diego desert woodrat, southern California rufous-crowned sparrow, coastal western whiptail, and San Diego horned lizard. Some of these species are also found in chaparral[56]. Rare plants found in coastal sage scrub in the Santa Monica Mountains include Santa Susana tarplant, Coulter's saltbush, Blockman's dudleya, Braunton's milkvetch, Parry's spineflower, and Plummer's mariposa lily[57]. A total of 32 sensitive species of reptiles, birds and mammals have been identified in this community by the National Park Service.[58]

One of the most important ecological functions of coastal sage scrub in the Santa Monica Mountains is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define coastal sage scrub have dense root masses that hold the surface soils much more effectively than the exotic annual grasses and forbs that tend to dominate in disturbed areas. The native shrubs of this community are resistant not only to drought, as discussed above, but well adapted to fire. Most of the semi-woody shrubs have some ability to crown sprout after

---

[51] Westman, W.E. 1981. Diversity relations and succession in Californian coastal sage scrub. Ecology 62:170-184.
[52] Ibid.
[53] Atwood, J. L. 1993. California gnatcatchers and coastal sage scrub: The biological basis for endangered species listing. pp.149-166 *In*: Interface Between Ecology and Land Development in California. Ed. J. E. Keeley, So. Calif. Acad. of Sci., Los Angeles. California Department of Fish and Game (CDFG). 1993. The Southern California Coastal Sage Scrub (CSS) Natural Communities Conservation Plan (NCCP). CDFG and Calif. Resources Agency, 1416 9th St., Sacramento, CA 95814.
[54] Westman, W.E. 1981. op. cit.
[55] Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.
[56] O'Leary J.F., S.A. DeSimone, D.D. Murphy, P.F. Brussard, M.S. Gilpin, and R.F. Noss. 1994. Bibliographies on coastal sage scrub and related malacophyllous shrublands of other Mediterranean-type climates. *California Wildlife Conservation Bulletin* 10:1–51.
[57] Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.
[58] NPS, 2000, op cit.

fire. Several CSS species (e.g., *Eriogonum cinereum*) in the Santa Monica Mountains and adjacent areas resprout vigorously and other species growing near the coast demonstrate this characteristic more strongly than do individuals of the same species growing at inland sites in Riverside County.[59] These shrub species also tend to recolonize rapidly from seed following fire. As a result they provide persistent cover that reduces erosion.

In addition to performing extremely important roles in the Mediterranean ecosystem, the coastal sage scrub community type has been drastically reduced in area by habitat loss to development. In the early 1980's it was estimated that 85 to 90 percent of the original extent of coastal sage scrub in California had already been destroyed.[60] Losses since that time have been significant and particularly severe in the coastal zone.

Therefore, because of its increasing rarity, its important role in the functioning of the Santa Monica Mountains Mediterranean ecosystem, and its extreme vulnerability to development, coastal sage scrub within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.

Chaparral

Another shrub community in the Santa Monica Mountain Mediterranean ecosystem is chaparral. Like "coastal sage scrub," this is a generic category of vegetation. Chaparral species have deep roots (10s of ft) and hard waxy leaves, adaptations to drought that increase water supply and decrease water loss at the leaf surface. Some chaparral species cope more effectively with drought conditions than do desert plants[61]. Chaparral plants vary from about one to four meters tall and form dense, intertwining stands with nearly 100 percent ground cover. As a result, there are few herbaceous species present in mature stands. Chaparral is well adapted to fire. Many species regenerate mainly by crown sprouting; others rely on seeds which are stimulated to germinate by the heat and ash from fires. Over 100 evergreen shrubs may be found in chaparral[62]. On average, chaparral is found in wetter habitats than coastal sage scrub, being more common at higher elevations and on north facing slopes.

The broad category "northern mixed chaparral" is the major type of chaparral shown in the National Park Service map of the Santa Monica Mountains. However, northern mixed chaparral can be variously dominated by chamise, scrub oak or one of several species of manzanita or by ceanothus. In addition, it commonly contains woody vines and large shrubs such as mountain mahogany, toyon, hollyleaf redberry, and sugarbush[63]. The rare red shank chaparral plant community also occurs in the Santa Monica Mountains. Although included within the category "northern mixed chaparral" in

[59] Dr. John O'Leary, SDSU, personal communication to Dr. John Dixon, CCC, July 2, 2002
[60] Westman, W.E. 1981. op. cit.
[61] Dr. Stephen Davis, Pepperdine University. Presentation at the CCC workshop on the significance of native habitats in the Santa Monica Mountains. June 13, 2002.
[62] Keely, J.E. and S.C. Keeley. Chaparral. Pages 166-207 in M.G. Barbour and W.D. Billings, eds. North American Terrestrial Vegetation. New York, Cambridge University Press.
[63] Ibid.

the vegetation map, several types of ceanothus chaparral are reported in the Santa Monica Mountains. Ceanothus chaparral occurs on stable slopes and ridges, and may be dominated by bigpod ceanothus, buck brush ceanothus, hoaryleaf ceanothus, or greenbark ceanothus. In addition to ceanothus, other species that are usually present in varying amounts are chamise, black sage, holly-leaf redberry, sugarbush, and coast golden bush[64].

Several sensitive plant species that occur in the chaparral of the Santa Monica Mountains area are: Santa Susana tarplant, Lyon's pentachaeta, marcescent dudleya, Santa Monica Mountains dudleya, Braunton's milk vetch and salt spring checkerbloom[65]. Several occurring or potentially occurring sensitive animal species in chaparral from the area are: Santa Monica shieldback katydid, western spadefoot toad, silvery legless lizard, San Bernardino ring-neck snake, San Diego mountain kingsnake, coast patch-nosed snake, sharp-shinned hawk, southern California rufous-crowned sparrow, Bell's sparrow, yellow warbler, pallid bat, long-legged myotis bat, western mastiff bat, and San Diego desert woodrat.[66]

Coastal sage scrub and chaparral are the predominant generic community types of the Santa Monica Mountains and provide the living matrix within which rarer habitats like riparian woodlands exist. These two shrub communities share many important ecosystem roles. Like coastal sage scrub, chaparral within the Santa Monica Mountains provides critical linkages among riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for sensitive species, and stabilizes steep slopes and reduces erosion, thereby protecting the water quality of coastal streams.

Many species of animals in Mediterranean habitats characteristically move among several plant communities during their daily activities, and many are reliant on different communities either seasonally or during different stages of their life cycle. The importance of an intact mosaic of coastal sage scrub, chaparral, and riparian community types is perhaps most critical for birds. However, the same principles apply to other taxonomic groups. For example, whereas coastal sage scrub supports a higher diversity of native ant species than chaparral, chaparral habitat is necessary for the coast horned lizard, an ant specialist[67]. Additional examples of the importance of an interconnected communities, or habitats, were provided in the discussion of coastal sage scrub above. This is an extremely important ecosystem role of chaparral in the Santa Monica Mountains.

Chaparral is also remarkably adapted to control erosion, especially on steep slopes. The root systems of chaparral plants are very deep, extending far below the surface and

---

[64] Ibid.
[65] Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.
[66] Ibid.
[67] A.V. Suarez. Ants and lizards in coastal sage scrub and chaparral. A presentation at the CCC workshop on the significance of native habitats in the Santa Monica Mountains. June 13, 2002.

penetrating the bedrock below[68], so chaparral literally holds the hillsides together and prevents slippage.[69] In addition, the direct soil erosion from precipitation is also greatly reduced by 1) water interception on the leaves and above ground foliage and plant structures, and 2) slowing the runoff of water across the soil surface and providing greater soil infiltration. Chaparral plants are extremely resistant to drought, which enables them to persist on steep slopes even during long periods of adverse conditions. Many other species die under such conditions, leaving the slopes unprotected when rains return. Since chaparral plants recover rapidly from fire, they quickly re-exert their ground stabilizing influence following burns. The effectiveness of chaparral for erosion control after fire increases rapidly with time[70]. Thus, the erosion from a 2-inch rain-day event drops from 5 yd^3/acre of soil one year after a fire to 1 yd^3/acre after 4 years.[71] The following table illustrates the strong protective effect of chaparral in preventing erosion.

Soil erosion as a function of 24-hour precipitation and chaparral age.

Years Since Fire	Erosion (yd^3/acre) at Maximum 24-hr Precipitation of:		
	2 inches	5 inches	11 inches
1	5	20	180
4	1	12	140
17	0	1	28
50+	0	0	3

Therefore, because of its important roles in the functioning of the Santa Monica Mountains Mediterranean ecosystem, and its extreme vulnerability to development, chaparral within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.

Oak Woodland and Savanna

Coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more

[68] Helmers, H., J.S. Horton, G. Juhren and J. O'Keefe. 1955. Root systems of some chaparral plants in southern California. Ecology 36(4):667-678. Kummerow, J. and W. Jow. 1977. Root systems of chaparral shrubs. Oecologia 29:163-177.
[69] Radtke, K. 1983. *Living more safely in the chaparral-urban interface*. General Technical Report PSW-67. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Berkeley, California. 51 pp.
[70] Kittredge, J. 1973. Forest influences — the effects of woody vegetation on climate, water, and soil. Dover Publications, New York. 394 pp. Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. (Table 1). The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. Vicars, M. (ed.) 1999. FireSmart: protecting your community from wildfire. Partners in Protection, Edmonton, Alberta.
[71] Ibid.

tolerant of salt-laden fog than other oaks and is generally found nearer the coast[72]. Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains.

Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The understory is now dominated by annual grasses and recruitment of seedlings is generally poor. This is a very threatened habitat.

The important ecosystem functions of oak woodlands and savanna are widely recognized[73]. These habitats support a high diversity of birds[74], and provide refuge for many species of sensitive bats[75]. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats.

Therefore, because of their important ecosystem functions and vulnerability to development, oak woodlands and savanna within the Santa Monica Mountains met the definition of ESHA under the Coastal Act.

Grasslands

Grasslands consist of low herbaceous vegetation that is dominated by grass species but may also harbor native or non-native forbs.

California Perennial Grassland

Native grassland within the Santa Monica Mountains consists of perennial native needlegrasses: purple needlegrass, (Nassella pulchra), foothills needlegrass, (Nassella lepida) and nodding needlegrass (Nassella cernua). These grasses may occur in the same general area but they do not typically mix, tending to segregate based on slope

---

[72] NPS 2000. op. cit.

[73] Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72–76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

[74] Cody, M.L. 1977. Birds. Pp. 223–231 *in* Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

[75] Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

and substrate factors[76]. Mixed with these native needlegrasses are many non-native annual species that are characteristic of California annual grassland[77]. Native perennial grasslands are now exceedingly rare[78]. In California, native grasslands once covered nearly 20 percent of the land area, but today are reduced to less than 0.1 percent[79]. The California Natural Diversity Database (CNDDB) lists purple needlegrass habitat as a community needing priority monitoring and restoration. The CNDDB considers grasslands with 10 percent or more cover by purple needlegrass to be significant, and recommends that these be protected as remnants of original California prairie. Patches of this sensitive habitat occur throughout the Santa Monica Mountains where they are intermingled with coastal sage scrub, chaparral and oak woodlands.

Many of the raptors that inhabit the Santa Monica Mountains make use of grasslands for foraging because they provide essential habitat for small mammals and other prey. Grasslands adjacent to woodlands are particularly attractive to these birds of prey since they simultaneously offer perching and foraging habitat. Particularly noteworthy in this regard are the white-tailed kite, northern harrier, sharp-shinned hawk, Cooper's hawk, red-shouldered hawk, red-tailed hawk, golden eagle, American kestrel, merlin, and prairie falcon[80].

Therefore, because of their extreme rarity, important ecosystem functions, and vulnerability to development, California native perennial grasslands within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

California Annual Grassland

The term "California annual grassland" has been proposed to recognize the fact that non-native annual grasses should now be considered naturalized and a permanent feature of the California landscape and should be acknowledged as providing important ecological functions. These habitats support large populations of small mammals and provide essential foraging habitat for many species of birds of prey. California annual grassland generally consists of dominant invasive annual grasses that are primarily of Mediterranean origin. The dominant species in this community include common wild oats (Avena fatua), slender oat (Avena barbata), red brome (Bromus madritensis ssp. Rubens), ripgut brome, (Bromus diandrus), and herbs such as black mustard (Brassica nigra), wild radish (Raphanus sativus) and sweet fennel (Foeniculum vulgare). Annual grasslands are located in patches throughout the Santa Monica Mountains in previously disturbed areas, cattle pastures, valley bottoms and along roadsides. While many of

[76] Sawyer, J. O. and T. Keeler-Wolf. 1995. A manual of California vegetation. California Native Plant Society, 1722 J St., Suite 17, Sacramento, CA 95814.
[77] Biological Resources Assessment of the Proposed Santa Monica Mountains Significant Ecological Area. Nov. 2000. Los Angeles Co., Dept. of Regional Planning, 320 West Temple St., Rm. 1383, Los Angeles, CA 90012.
[78] Noss, R.F., E.T. LaRoe III and J.M. Scott. 1995. Endangered ecosystems of the United States: a preliminary assessment of loss and degradation. Biological Report 28. National Biological Service, U.S. Dept. of Interior.
[79] NPS 2000. op. cit.
[80] NPS 2000. op. cit.

these patches are dominated by invasive non-native species, it would be premature to say that they are never sensitive or do not harbor valuable annual native species. A large number of native forbs also may be present in these habitats[81], and many native wildflowers occur primarily in annual grasslands. In addition, annual grasslands are primary foraging areas for many sensitive raptor species in the area.

Inspection of California annual grasslands should be done prior to any impacts to determine if any rare native species are present or if any rare wildlife rely on the habitat and to determine if the site meets the Coastal Act ESHA criteria.

Effects of Human Activities and Development on Habitats within the Santa Monica Mountains

The natural habitats of the Santa Monica Mountains are highly threatened by current development pressure, fragmentation and impacts from the surrounding megalopolis. The developed portions of the Santa Monica Mountains represents the extension of this urbanization into natural areas. About 54% of the undeveloped Santa Monica Mountains are in private ownership[82], and computer simulation studies of the development patterns over the next 25 years predict a serious increase in habitat fragmentation[83]. Development and associated human activities have many well-documented deleterious effects on natural communities. These environmental impacts may be both direct and indirect and include the effects of increased fire frequency, of fire clearance, of introduction of exotic species, and of night lighting.

Increased Fire Frequency

Since 1925, all the major fires in the Santa Monica Mountains have been caused by human activities[84]. Increased fire frequency alters plant communities by creating conditions that select for some species over others. Strong resprouting plant species such as laurel sumac, are favored while non-sprouters like bigpod ceanothus, are at a disadvantage. Frequent fire recurrence before the non-sprouters can develop and reestablish a seed bank is detrimental, so that with each fire their chances for propagation are further reduced. Resprouters can be sending up new shoots quickly, and so they are favored in an increased fire frequency regime. Also favored are weedy and invasive species. Dr. Steven Davis in his abstract for a Coastal Commission

[81] Holstein, G. 2001. Pre-agricultural grassland in Central California. Madrono 48(4):253-264. Stromberg, M.R., P. Kephart and V. Yadon. 2001. Composition, *invasibility and diversity of coastal California* grasslands. Madrono 48(4):236-252.
[82] National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.
[83] Swenson, J. J., and J. Franklin. 2000. The effects of future urban development on habitat fragmentation in the Santa Monica Mountains. Landscape Ecol. 15:713-730.
[84] NPS, 2000, op. cit.

Workshop stated[85] "*We have evidence that recent increases in fire frequency has eliminated drought-hardy non-sprouters from chaparral communities near Malibu, facilitating the invasion of exotic grasses and forbs that further exacerbate fire frequency.*" Thus, simply increasing fire frequency from about once every 22 years (the historical frequency) to about once every 12 years (the current frequency) can completely change the vegetation community. This has cascading effects throughout the ecosystem.

Fuel Clearance

The removal of vegetation for fire protection in the Santa Monica Mountains is required by law in "Very High Fire Hazard Severity Zones"[86]. Fuel removal is reinforced by insurance carriers[87]. Generally, the Santa Monica Mountains are considered to be a high fire hazard severity zone. In such high fire hazard areas, homeowners must often resort to the California FAIR Plan to obtain insurance. Because of the high risk, all homes in "brush areas" are assessed an insurance surcharge if they have less than the recommended 200-foot fuel modification zone[88] around the home. The combination of insurance incentives and regulation assures that the 200-foot clearance zone will be applied universally[89]. While it is not required that all of this zone be cleared of vegetation, the common practice is simply to disk this zone, essentially removing or highly modifying all native vegetation. For a new structure not adjacent to existing structures, this results in the removal or modification of a minimum of three acres of vegetation[90]. While the directly impacted area is large, the effects of fuel modification extend beyond the 200-foot clearance area.

Effects of Fuel Clearance on Bird Communities

The impacts of fuel clearance on bird communities was studied by Stralberg who identified three ecological categories of birds in the Santa Monica Mountains: 1) local and long distance migrators (ash-throated flycatcher, Pacific-slope flycatcher, phainopepla, black-headed grosbeak), 2) chaparral-associated species (Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, California towhee) and 3) urban-associated species

---

[85] Davis, Steven. Effects of fire and other factors on patterns of chaparral in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.
[86] 1996 Los Angeles County Fire Code Section 1117.2.1
[87] Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024. Vicars, M. (ed.) 1999. FireSmart: protecting your community from wildfire. Partners in Protection, Edmonton, Alberta.
[88] Fuel Modification Plan Guidelines. Co. of Los Angeles Fire Department, Fuel Modification Unit, Prevention Bureau, Forestry Division, Brush Clearance Section, January 1998.
[89] Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024.
[90] Ibid.

(mourning dove, American crow, Western scrub-jay, Northern mockingbird)[91]. It was found in this study that the number of migrators and chaparral-associated species decreased due to habitat fragmentation while the abundance of urban-associated species increased. The impact of fuel clearance is to greatly increase this edge-effect of fragmentation by expanding the amount of cleared area and "edge" many-fold. Similar results of decreases in fragmentation-sensitive bird species are reported from the work of Bolger et al. in southern California chaparral[92].

Effects of Fuel Clearance on Arthropod Communities

Fuel clearance and habitat modification may also disrupt native arthropod communities, and this can have surprising effects far beyond the cleared area on species seemingly unrelated to the direct impacts. A particularly interesting and well-documented example with ants and lizards illustrates this point. When non-native landscaping with intensive irrigation is introduced, the area becomes favorable for the invasive and non-native Argentine ant. This ant forms "super colonies" that can forage more than 650 feet out into the surrounding native chaparral or coastal sage scrub around the landscaped area[93]. The Argentine ant competes with native harvester ants and carpenter ants displacing them from the habitat[94]. These native ants are the primary food resource for the native coast horned lizard, a California "Species of Special Concern." As a result of Argentine ant invasion, the coast horned lizard and its native ant food resources are diminished in areas near landscaped and irrigated developments[95]. In addition to specific effects on the coast horned lizard, there are other Mediterranean habitat ecosystem processes that are impacted by Argentine ant invasion through impacts on long-evolved native ant-plant mutualisms[96]. The composition of the whole arthropod community changes and biodiversity decreases when habitats are subjected to fuel modification. In coastal sage scrub disturbed by fuel modification, fewer arthropod

[91] Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: a Santa Monica Mountains case study. Pp. 125–136 *in* Keeley, J.E., M. Baer-Keeley, and C.J. Fotheringham (eds.). *2nd interface between ecology and land development in California*. U.S. Geological Survey, Sacramento, California.
[92] Bolger, D. T., T. A. Scott and J. T. Rotenberry. 1997. Breeding bird abundance in an urbanizing landscape in coastal Southern California. Conserv. Biol. 11:406-421.
[93] Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. Ecology 79(6):2041-2056.
[94] Holway, D.A. 1995. The distribution of the Argentine ant (*Linepithema humile*) in central California: a twenty-year record of invasion. Conservation Biology 9:1634-1637. Human, K.G. and D.M. Gordon. 1996. Exploitation and interference competition between the invasive Argentine ant, (*Linepithema humile*), and native ant species. Oecologia 105:405-412.
[95] Fisher, R.N., A.V. Suarez and T.J. Case. 2002. Spatial patterns in the abundance of the coastal horned lizard. Conservation Biology 16(1):205-215. Suarez, A.V. J.Q. Richmond and T.J. Case. 2000. Prey selection in horned lizards following the invasion of Argentine ants in southern California. Ecological Applications 10(3):711-725.
[96] Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. Ecology 79(6):2041-2056. Bond, W. and P. Slingsby. Collapse of an Ant-Plant Mutualism: The Argentine Ant (*Iridomyrmex humilis*) and Myrmecochorous Proteaceae. Ecology 65(4):1031-1037.

predator species are seen and more exotic arthropod species are present than in undisturbed habitats[97].

Studies in the Mediterranean vegetation of South Africa (equivalent to California shrubland with similar plant species) have shown how the invasive Argentine ant can disrupt the whole ecosystem.[98] In South Africa the Argentine ant displaces native ants as they do in California. Because the native ants are no longer present to collect and bury seeds, the seeds of the native plants are exposed to predation, and consumed by seed eating insects, birds and mammals. When this habitat burns after Argentine ant invasion the large-seeded plants that were protected by the native ants all but disappear. So the invasion of a non-native ant species drives out native ants, and this can cause a dramatic change in the species composition of the plant community by disrupting long-established seed dispersal mutualisms. In California, some insect eggs are adapted to being buried by native ants in a manner similar to plant seeds[99].

Artificial Night Lighting

One of the more recently recognized human impacts on ecosystem function is that of artificial night lighting as it effects the behavior and function of many different types of organisms[100]. For literally billions of years the only nighttime sources of light were the moon and stars, and living things have adapted to this previously immutable standard and often depend upon it for their survival. A review of lighting impacts suggests that whereas some species are unaffected by artificial night lighting, many others are severely impacted. Overall, most impacts are negative ones or ones whose outcome is unknown. Research to date has found negative impacts to plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals, and a detailed literature review can be found in the report by Longcore and Rich[101].

Summary

In a past action, the Coastal Commission found[102] that the Santa Monica Mountains Mediterranean Ecosystem, which includes the undeveloped native habitats of the Santa Monica Mountains, is rare and especially valuable because of its relatively pristine

[97] Longcore, T.R. 1999. Terrestrial arthropods as indicators of restoration success in coastal sage scrub. Ph.D. Dissertation, University of California, Los Angeles.
[98] Christian, C. 2001. Consequences of a biological invasion reveal the importance of mutualism for plant communities. Nature 413:635-639.
[99] Hughes, L. and M. Westoby. 1992. Capitula on stick insect eggs and elaiosomes on seeds: convergent adaptations for burial by ants. Functional Ecology 6:642-648.
[100] . Longcore, T and C. Rich. 2002. Protection of environmentally sensitive habitat areas in proposed local coastal plan for the Santa Monica Mountains. The Urban Wildlands Group, Inc., P.O. Box 24020 Los Angeles, CA 90024.
[101] Ibid, and Ecological Consequences of Artificial Night Lighting, Conference, February 23-24, 2002, UCLA Los Angeles, California.
[102] Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

character, physical complexity, and resultant biological diversity. The undeveloped native habitats within the Santa Monica Mountains that are discussed above are ESHA because of their valuable roles in that ecosystem, including providing a critical mosaic of habitats required by many species of birds, mammals and other groups of wildlife, providing the opportunity for unrestricted wildlife movement among habitats, supporting populations of rare species, and preventing the erosion of steep slopes and thereby protecting riparian corridors, streams and, ultimately, shallow marine waters.

The importance the native habitats in the Santa Monica Mountains was emphasized nearly 20 years ago by the California Department of Fish and Game[103]. Commenting on a Draft Land Use Plan for the City of Malibu, the Regional Manager wrote that, "It is essential that large areas of land be reclassified to reflect their true status as ESHAs. One of the major needs of the Malibu LUP is that it should provide protection for entire drainages and not just stream bottoms." These conclusions were supported by the following observations:

> "It is a fact that many of the wildlife species of the Santa Monica Mountains, such as mountain lion, deer, and raccoon, have established access routes through the mountains. They often travel to and from riparian zones and development such as high density residential may adversely affect a wildlife corridor.
>
> Most animal species that exist in riparian areas will, as part of their life histories, also be found in other habitat types, including chapparal (sic) or grassland. For example, hawks nest and roost in riparian areas, but are dependent on large open areas for foraging. For the survival of many species, particularly those high on the food chain, survival will depend upon the presence of such areas. Such areas in the Santa Monica Mountains include grassland and coastal sage scrub communities, which have been documented in the SEA studies as supporting a wide diversity of plant and animal life."

This analysis by the Department of Fish and Game is consonant with the findings of the Commission in the case of the Malibu LCP, and with the conclusion that large contiguous areas of relatively pristine native habitat in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

---

[103] Letter from F. A. Worthley, Jr. (CDFG) to N. Lucast (CCC) re Land Use Plan for Malibu dated March 22, 1983.

FILE COPY

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Date: November 22, 1988
Permit No. 5-83-290F6

COASTAL DEVELOPMENT PERMIT

On June 11, 1988, the California Coastal Commission granted to

Cold Creek Associates a General Partnership

this permit subject to the attached Standard and Special conditions, for development consisting of:

Subdivision of an 85 acre parcel into 10 residential lots totalling 26 acres and one additional lot to be set aside as a recreational use and trail easement totalling 59 acres.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at North of Monte Nido North Subdivision at 1100 N. Cold Canyon Rd, Malibu, CA.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: Pamela Dee

Title: Staff Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Nov. 28, 1988
Date

Signature of Permittee

Exhibit 7
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

COASTAL DEVELOPMENT PERMIT

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24 hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

Prior to issuance of permit, applicant shall submit/record:

1. a. Appropriate documents necessary pursuant to Section E of the Malibu Interpretive Guidelines which represent nine (9) transfer of development credits. The form and content of the documents shall be acceptable to the Executive Director.

b. As an alternative to 1(a) above, the applicant shall participate in the Coastal Conservancy lot retirement program. Prior to issuance of a permit, the Executive Director of the Coastal Conservancy must demonstrate to the satisfaction of the Executive Director of the Commission that nine (9) transfer of development credits can and will be acquired.

2. Submit an irrevocable offer to dedicate an access easement to provide for recreational use including hiking and equestrian access. The irrevocable offer shall be of a form and content approved by the Executive Director free of prior encumbrances except for tax liens providing the public the right of recreational use, including pedestrian and equestrian access over dedicator's real property, and shall include a survey showing that specific location of the easement. The offer shall run with the land in favor of the People of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of the recording. This easement will not preclude the construction of a road easement, not to exceed 60' in width, if approved by the Coastal Commission or its successor agency to serve adjoining parcels, consistent with an approved Local Coastal Program.

7970A

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Date: June 14, 1996
Permit No. 4-96-047

COASTAL DEVELOPMENT PERMIT

On June 14, 1996, the California Coastal Commission granted to Bob & Sherry DaSilva this permit subject to the attached Standard and Special conditions, for development consisting of:

Construct a 4,100 sq. ft. two-story single family residence, attached three car garage, swimming pool and spa, driveway, retaining wall, swale and underground drainage system. Remove portion of existing drainage swale. Finished grading consists of about 330 cubic yards. The property includes a building pad, driveway and drainage swale approved in Coastal Permit P-81-7701 and is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 975 Cold Canyon Road, Calabasas.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: JAMES C. JOHNSON
Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

6-14-96
Date

Signature of Permittee

7361A/pg.5

Exhibit 8
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans. All recommendations contained in the reports: 1) "Engineering Geologic Memorandum, Sewage Disposal Concept, Lot 6, Tract 33873, Calabasas", dated September 28, 1994 by Geoplan, Inc.; 2) "Final Geologic Report, Lots 5, 6 and 7, Tract No. 33873, Cold Canyon Area, County of Los Angeles, California", dated March 19, 1991 by Pacific Soils Engineering, Inc.; and 3) "Final Soils Engineering Report, Lots 5, 6 and 7, Tract No. 33873, 901 Cold Canyon Road, County of Los Angeles, California", dated March 19, 1991 by Pacific Soils Engineering, Inc., shall be incorporated into all final design and construction including final grading, foundation and slab design, retaining walls, septic system, and drainage must be incorporated into the final plans. All plans must be reviewed and approved by the geologic consultant.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

2. WILD FIRE WAIVER OF LIABILITY

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

3. LANDSCAPE AND FUEL MODIFICATION PLAN

Prior to issuance of the permit, the applicant shall submit landscaping and fuel modification plan prepared by a licensed landscape architect and approved by the Los Angeles County Forestry Department for review and approval by the Executive Director. The plans shall incorporate the following criteria:

A) All graded areas on the subject site and access easement shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigeneous plant species which tend to supplant native species shall not be used.

B) All cut and fill slopes and disturbed soils shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 100 percent coverage within three years and shall be repeated, if necessary, to provide such coverage.

C) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.

(D) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. However, in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the County of Los Angeles Forestry Department.

4. FUTURE DEVELOPMENT RESTRICTION

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. 4-96-047; and that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-96-047 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Special Condition three (3) of this permit 4-96-047 is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

F 4c

STATE OF CALIFORNIA—THE RESOURCES AGENCY PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 4/26/96
49th Day: 6/14/96
180th Day: 10/23/96
Staff: JCJ/V JCJ
Staff Report: 5/20/96
Hearing Date: 6/11-14/96
Commission Action:
7296A

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-96-047

APPLICANT: Bob and Sherry DaSilva

PROJECT LOCATION: 975 Cold Canyon Road, Calabasas, Los Angeles County

PROJECT DESCRIPTION: Construct a 4,100 sq. ft. two-story single family residence, attached three car garage, swimming pool and spa, driveway, retaining wall, swale and underground drainage system. Remove portion of existing drainage swale. Finished grading consists of about 330 cubic yards. The property includes a building pad, driveway and drainage swale approved in Coastal Permit P-81-7701.

Lot Area	2.35 acres
Building Coverage	3,570 sq. ft.
Pavement Coverage	4,208 sq. ft.
Landscape Coverage	1,500 sq. ft.
Parking Spaces	3
Zoning	1 du/ 5 acres
Plan Designation	Rural Land II
Project Density	1 du/ 2 acres
Ht abv fin grade	32 feet

LOCAL APPROVALS RECEIVED: Project Approval in Concept, Department of Regional Planning, Los Angeles County, dated 3/7/96; Sewage Disposal Approved, Department of Health Services, Los Angeles County, dated 3/8/96; Geologic Engineering Review Sheet, Los Angeles County Department of Public Works, Materials Engineering Division, dated 4/25/95; Fire Department, Los Angeles County, dated 2/8/96.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan, Los Angeles County; Coastal Permit No. P-81-7701, Western Estates; Coastal Permit 5-83-290, Western Estates; Coastal Permit Nos. 5-91-409 and 4-94-157, Teherani; Coastal Permit No. 4-92-153, Ballard; Coastal Permit No. 4-96-041, Zeluck-Leeds.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with four (4) Special Conditions; addressing the consulting geologist's recommendations, a wild fire waiver of liability, a landscaping and fuel modification plan, and a future improvements restriction. The property includes a portion of Cold Creek, a blue line stream, and the Stunt High equestrian trail within the Malibu/Cold Creek Resource Management Area and the Cold Creek Environmentally Sensitive Habitat Area. The project as conditioned will protect these resources and public access.

Exhibit 9
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans. All recommendations contained in the

reports: 1) "Engineering Geologic Memorandum, Sewage Disposal Concept, Lot 6, Tract 33873, Calabasas", dated September 28, 1994 by Geoplan, Inc.; 2) "Final Geologic Report, Lots 5, 6 and 7, Tract No. 33873, Cold Canyon Area, County of Los Angeles, California", dated March 19, 1991 by Pacific Soils Engineering, Inc.; and 3) "Final Soils Engineering Report, Lots 5, 6 and 7, Tract No. 33873, 901 Cold Canyon Road, County of Los Angeles, California", dated March 19, 1991 by Pacific Soils Engineering, Inc., shall be incorporated into all final design and construction including final grading, foundation and slab design, retaining walls, septic system, and drainage must be incorporated into the final plans. All plans must be reviewed and approved by the geologic consultant.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

2. WILD FIRE WAIVER OF LIABILITY

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

3. LANDSCAPE AND FUEL MODIFICATION PLAN

Prior to issuance of the permit, the applicant shall submit landscaping and fuel modification plan prepared by a licensed landscape architect and approved by the Los Angeles County Forestry Department for review and approval by the Executive Director. The plans shall incorporate the following criteria:

A) All graded areas on the subject site and access easement shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigeneous plant species which tend to supplant native species shall not be used.

B) All cut and fill slopes and disturbed soils shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 100 percent coverage within three years and shall be repeated, if necessary, to provide such coverage.

C) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.

(D) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. However, in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the County of Los Angeles Forestry Department.

4. FUTURE DEVELOPMENT RESTRICTION

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. 4-96-047; and that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-96-047 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Special Condition three (3) of this permit 4-96-047 is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

IV. Findings and Declarations.

A. Project Description and Background

The applicant proposes to construct a 4,100 sq. ft., two story, 32 ft. high from finished grade, single family residence with attached 550 sq. ft. 3-car garage, pool, spa, driveway, septic tank, retaining wall, drainage swale adjacent to retaining wall and driveway trench drain, fencing along west and south perimeter of the pad, and to remove a portion of existing drainage swale. About 330 cubic yards of additional grading is proposed on the 0.95 acres building pad and driveway within the total 2.35 acre lot. The property includes a building pad, driveway, drainage swale and wood fencing approved in Coastal Permit P-81-7701. (See Exhibits 1 - 10)

The project site, the building pad, is located north of the Monte Nido area, west of Cold Canyon Road, drains to a blue line stream, Cold Creek, is within the Malibu/Cold Creek Resource Management Area, and is within 200 feet of the Cold Creek Environmentally Sensitive Resource Area, which includes a significant oak woodland and savannah. The Los Angeles County Environmental Review Board has recommended a number of conditions on the project to protect environmentally sensitive habitat areas and has restricted the development to earth tone colors to reduce visual impacts from the equestrian trail which

crosses the property below and west of the building site. (see Exhibits 4 and 11, Malibu/Santa Monica Mountains Area Plan, Trail System, Los Angeles County Department of Parks and Recreation, June 1983).

The subject site is lot 6 of a ten lot, 85 acre subdivision approved by the Commission in 1981 (P-81-7701). This permit included the grading of roads, building pads, and septic systems. The subject property contains an equestrian trail easement, the Stunt High trail, along the east side of the creek among a number of significant oak trees, which was originally recorded on tract map 33873, Lot 6, Page 5 of 8, pursuant to CDP 5-83-290 (Western Estates). The proposed development will not interfere with the trail easement that traverses the parcel. The adjoining parcel to the south includes a completed residence as a result of coastal permit 4-94-157, Teherani; the adjoining parcel to the east includes a temporary residential trailer and a partially constructed residence as a result of coastal permit 4-92-153, Ballard.

B. Geologic and Fire Hazards

Section 30253 of the Coastal Act states, in part, that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

In addition, the certified Los Angeles County Land Use Plan includes the following policies regarding hazards, which are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

P147 Continue to evaluate all new development for impact on, and from, geologic hazard.

P156 Continue to evaluate all new development for impact on, and from, fire hazard.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The parcel consists of a rough graded building pad and driveway about 50 feet above Cold Creek and its floodplain, west of Cold Canyon Road. The building pad consists of compacted artificial fill on bedrock known as Conejo Volcanics. Along the Cold Creek floodplain the alluvium consists of loose sand, silt gravel and boulders. At the building pad, the site descends to the north and west at gradients ranging from about 2:1 to 1-1/2:1 to the Cold Creek floodplain. The site ascends from the building pad to the south and

east at a gradient of about 1-1/2:1 to another building pad with a recently constructed residence permitted by coastal permit 4-94-157, Teherani.

Vegetation on portions of the descending slopes consist of dense native chaparral, while the floodplain includes eleven significant oak trees on the subject parcel. According to the Los Angeles County of Public Works Department, the OES-FEMA map dated 9-21-94 indicates that this site has burned in the past 10 to 30 years.

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. Regarding the geologic and erosion hazard, the applicants submitted three soils and geology reports titled: 1) "Engineering Geologic Memorandum, Sewage Disposal Concept, Lot 6, Tract, 33873, Calabasas", dated September 28, 1994 by Geoplan, Inc.; and 3) "Final Geologic Report Lots 5, 6, and 7 Tract 33873 Cold Canyon Area County of Los Angeles, California", and "Final Soils Engineering Report", both dated March 19, 1991 by Pacific Soils Engineering, Inc. The Final Geologic Report addresses the geology and soil issues by stating:

> In conformance with the grading codes of the County of Los Angeles, submitted herewith is formal documentation that geologic recommendations made prior to and during grading have been incorporated into site construction. As a result, on-site improvements will be free from adverse effects of landsliding, settlement and slippage. Additionally, on-site grading construction improvements will not create adverse effects on geologic stability for bordering off-site property.
>
> It is the opinion of this firm that grading complies with recommendations from this office and the sites are geologically acceptable for residential construction.

The geology report, engineering geologic memorandum, and soils engineering report were approved by the Los Angeles County Department of Public Works, as noted on the Geology Review Sheet dated 9-1-92 and as a Geologic Engineering Review Sheet dated 4/25/95. The recommendations in these reports address the following issues: final grading, foundation and slab design, retaining walls, septic system, and drainage.

Based on the findings and recommendations of the consulting geologist, the Commission finds that the development is consistent with Section 30253 so long as all recommendations regarding the proposed development are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicants to submit the final project plans that have been certified in writing by the geology consultant as conforming to their recommendations, as noted in special condition one (1).

The Coastal Act requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act also recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number two (2).

Minimizing the erosion of the site is important to reduce geological hazards and minimize sediment deposition in an environmentally sensitive habitat area along Cold Creek, known as the Cold Creek Resource Management Area. The building site has about 75 feet of topographic relief and drains into a portion of Cold Creek and riparian habitat areas located on the property. The certified Malibu/Santa Monica Mountains Land Use Plan seeks to minimize non-essential vegetation clearance in the Cold Creek Resource Management Area, where the proposed project is located. In addition, the recommendations of the consulting engineer emphasize the importance of proper drainage and erosion control measures to ensure the stability of development on the site. The applicants have submitted a drainage plan which minimizes erosion from the project site to Cold Creek. Although a portion of the existing drainage swale will be removed for the construction of the pool, most of the swale will remain and is proposed to be connected to the proposed drainage system as noted in the applicant's drainage plan. (Exhibit 6) An existing water dissapator at the end of the downslope swale will remain to minimize erosion. For these reasons, the Commission finds it necessary to require the applicant to submit a landscape plan to minimize vegetation removal and to provide plantings primarily of native species. To ensure all disturbed slopes and soils are stabilized with landscaping after construction, a landscape plan that includes native drought resistant, and fire retardant plants compatible with the surrounding vegetation is necessary.

In addition, the site will be selectively cleared of native brush pursuant to the Fire Department requirements for clearing and thinning the area 200 feet from the residence. The replacement plants provided in the landscape plan will minimize and control erosion, as well as screen and soften the limited visual impact of the proposed development from the equestrian trail below the building pad. Special Condition number three (3) requires a landscape plan that provides for the use of native plant materials, plant coverage and replanting requirements and the submittal of a fuel modification plan approved by Los Angeles County Department of Forestry and for sediment basins if grading occurs during the rainy season.

Thus, the Commission finds that only as conditioned: to incorporate all recommendations by the applicant's consulting geologist; provide for the wild fire waiver of liability; and require a landscape and erosion control plan will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

Section 30251 of the Coastal Act states in part that:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

In addition, the certified Los Angeles County Land Use Plan includes the following policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to maximum extent feasible.

P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.

P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:

-be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.

-minimize the alteration of natural landforms.

-be landscaped to conceal raw-cut slopes.

-be visually compatible with and subordinate to the character of its setting.

-be sited so as not to significantly intrude into the skyline as seen from public viewing places.

P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.

The applicants propose to construct a two story residence and garage on an existing building pad located about 500 feet beyond and 125 feet below Cold Canyon Road and about 50 feet beyond and above an existing equestrian trail along Cold Creek. A private driveway from Cold Canyon Road provides access to the subject parcel and two adjoining parcels, one to the east and to the south.

In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Malibu/Santa Monica Mountains Land Use Plan protects visual resources in the Santa Monica Mountains. The Cold Creek Canyon Preserve is recognized as a "Scenic Area" which is given special treatment when evaluating potential impacts caused by new development.

The Commission examines the building site, the proposed grading, and the size of the building pad and structures. The project site is located within the Cold Creek Canyon Preserve. The development of the residence and garage raises two issues regarding the siting and design: one, whether or not public views from public roadways will be adversely impacted, or two, whether or not public views from public trails will be impacted. The siting and size of the building pad is existing; staff believes it is not visible from any public location. The proposed final grading of the pad is relatively minor compared to the nearly one acre size of the pad; after the grading is completed, the pad will not be visible from public locations from the south and east along Cold Canyon Road. Regarding the view of the proposed residence and garage, it is well beyond and hidden from the nearest public road, Cold Canyon Road. Further Cold Canyon Road is not designated as a scenic highway by the Malibu/Santa Monica Mountains Land Use Plan.

An equestrian trail, the Stunt High trail, is located on the western portion of the subject parcel along the east side of Cold Creek. Immediately to the north of the parcel, across and on the west side of Cold Creek is the Calabasas - Cold Creek trail which intersects with the Stunt High trail. (Exhibits 4 and 11) The proposed residence and pool will be visible from the Stunt High trail. However, its visibility will be limited due to the topography of the site, a 50 foot elevation difference and eleven large specimen oak trees along the trail. From the Calabasas - Cold Creek trail, the residence will also be visible. Again, it will be screened over time by a number of trees planted by the applicants along the north edge of the building pad. Further, the residence is designed to be visually compatible and subordinate to the topography of the building site by locating the residence on the portion of the building pad opposite these public trails.

The applicants propose a landscape plan that includes native, drought resistant, and fire retardant plants compatible with the surrounding vegetation. In addition, the site will be selectively cleared of native brush pursuant to the Fire Department requirements for clearing the area 200 feet from the structure. The replacement plants will minimize and control erosion, as well as screen and soften the visual impact of the proposed development. The existing oak trees along the western portion of the property will be retained. The landscape plan provides for new plants which will blend with the surrounding native vegetation. In addition, the existing trees and landscape plan will reduce potential visual impacts of the residence, garage and pool. Special Condition number three (3) requires a landscape plan and fuel modification plan that also provides for the use of only native plant materials, plant coverage and replanting requirements and submission of a fuel modification plan approved by Los Angeles County Department of Forestry and for sediment basins if grading occurs during the rainy season.

Further, future developments or improvements to the property have the potential to create visual impacts as seen from the public equestrian trail on the property. It is necessary to ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt, is reviewed by the Commission for compliance with the

visual resource protection policies of the Coastal Act. Condition number four (4), the future improvements deed restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Therefore, the proposed project will not impact the scenic public views in this area. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

D. Public Access and Recreation

Generally, the Coastal Act requires that public access and recreational opportunities to and along the coast be provided in all new development projects except where adequate access exists nearby. (Sections 30210, 30212 and 30214) In addition, the certified Los Angeles County Land Use Plan includes the following policy regarding protection of public access and recreational opportunities, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

P32 Provide a safe trail system throughout the mountain and seashore that can achieve the following:

* Link major recreational facilities

* Link with trail systems of adjacent jurisdictions

* Provide recreational corridors between the mountains and the coast

* Provide for flexible, site-specific design and routing to minimize impact on adjacent property, communities, and fragile habitats. In particular, ensure that trails located within Environmentally Sensitive Habitat Areas are designed to protect fish and wildlife values

* Provide connections with populated areas

* Provide for and be designed to accommodate multiple use (walking, hiking and equestrian) wherever appropriate

* Facilitate linkages to community trail systems

* Provide for a diversity of recreational and aesthetic experiences

* Reserve certain trails for walking and hiking only

* Prohibit public use of motorized vehicles on hiking/equestrian trails

The project site is located nearly five miles from the coast and inland of the first public road along the coast, Pacific Coast Highway. Therefore, access to the beach is not an issue. Rather, access to and along the coast is the issue. The Santa Monica Mountains include a number of public hiking and equestrian trails established to allow the public to access the area to and along this section of coast. There are two major trails in the vicinity of this project as noted in the map of the Malibu/Santa Monica Mountains Trail

System, Los Angeles County Department of Parks and Recreation, dated June 1983. (Exhibits 4 and 11) As noted above, one of these trails, the Stunt High trail, is located on the western portion of the project site. To the north of the property, is the Calabasas to Cold Creek Trail. The proposed residence, garage and driveway will not block access to any established trails in the area.

Therefore, the Commission finds that the proposed project does not affect public access to and along the coast and is thus, consistent with the public access and recreation policies, Sections 30210, 30212, and 30214, of the Coastal Act.

E. Land Resources/Environmentally Sensitive Habitat Areas

Section 30250 (a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

Section 30250

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Sections 30230 and 30231 of the Coastal Act are designed to protect and enhance, or restore where feasible, marine resources and the biological productivity and quality of coastal waters, including streams:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The habitat values contained in the Cold Creek Watershed have been well documented. A consultant's report prepared for Los Angeles County in 1976 by England and Nelson designates the Cold Creek Significant Watershed as a Significant Ecological Area (SEA). The report describes the concept of an SEA as follows:

The 62 significant ecological areas selected were chosen in an effort to identify areas in Los Angeles County that possess uncommon, unique or rare biological resources, and areas that are prime examples of the more common habitats and communities.

Thus, the goal of the project was to establish a set of areas that would illustrate the full range of biological diversity in Los Angeles County, and remain an undisturbed relic of what was once found throughout the region. However, to fulfill this function, all 62 significant ecological areas must be preserved in as near a pristine condition as possible ...

If the biotic resources of significant ecological areas are to be protected and preserved in a pristine state, they must be left undisturbed. Thus, the number of potential compatible uses is limited. Residential, agricultural, industrial, and commercial developments necessitate the removal of large areas of natural vegetation and are clearly incompatible uses.

The England and Nelson report also cites the specific habitat values of Cold Creek Canyon as follows:

"This is a relatively undisturbed natural sandstone basin. The floor of the valley is steep, with springs and a perennial stream, Cold Creek. The year-round surface water, which is uncommon in southern California, supports an unusually diverse flora. The extreme range in physical conditions, from wet streambed to dry rocky ridges, makes the area a showplace for native vegetation. Pristine stands of chaparral, southern oak woodland, coastal sage scrub, and riparian woodland are all found in the area. Several plant species that are uncommon to the general region are found here. Those include stream orchis (Epipachis gigantea), red mimulus (Mimulus cardinales), Humboldt lily (Lilium humboldtii var. ocellatum), big-leaf maple (Acermacrophyllum) and red shank (adenostema sparsifolium). In addition, the presence of several tree-sized flowering ash (Fraxinus dipetala), reaching 40 feet in height, is a unique botanical oddity. This scrub species has a normal maximum height of 15 to 20 feet."

Due to its many outstanding botanical features, the area serves an integral role as part of the instructional program for many academic institutions as well as a site for nature study and scientific research. The Mountains Restoration Trust and Occidental College have holdings in the area that are used for education and visited by qualified biologists.

The Cold Creek watershed consists of about 8 square miles (5000 acres) of generally rugged terrain within the heart of the Santa Monica Mountains. Both the lands and the remainder of the watershed serve as tributary areas to Cold Creek and the downstream Malibu Creek and Malibu Lagoon Significant Ecological Areas. The Cold Creek watershed has also been included in the inventory of California Natural Areas Coordinating Council, which includes this area as one of the 1,250 such natural areas in the State of California exhibiting "the significant features of the broad spectrum of natural phenomena that occur in California... These areas include those that are unique or outstanding examples and those that are typical or representative of a biotic community of geological formation. All areas have been selected on their merit..."

In recognition of these outstanding natural resources, State Parks and Recreation acquired the 320-acre Stunt Ranch in the heart of the Cold Creek watershed to protect the unique flora and fauna of this watershed. This ranch is directly adjacent to the 530-acre Cold Creek Preserve. The University of California's Natural Reserve System will be using portions of Stunt Ranch and the Cold Creek Preserve for teaching and research use in the field-oriented natural sciences. Cold Creek is also used as a control in regional water quality studies.

A report prepared for L.A. County Department of Regional Planning by Richard Friesen of the L.A. County Museum of Natural History also discusses the ecological significance of the Cold Creek SEA. The report states that the stream is "fed by several year round springs and seepage areas and has uncommonly interesting and healthy riparian communities". The report notes that the Cold Creek watershed is the last remaining watershed in the Santa Monica Mountains known to still contain representatives of Stone flies (Plecoptera)-aquatic insects that are very sensitive to increased siltation and runoff of petroleum-derived compounds from asphalt and other sources. Other more sensitive animal species "likely to utilize Cold Creek riparian and stream-side woodlands include the Bobcat (Lynx rufus), Mountain Lion (Feliz concolor), white-tailed kite (Elanus leverus), Long-eared owl (Asio otus) Ringtail ((Bassariscus astutus), Long-tailed Weasel (Mustela frenata), and two-striped Garter Snake (Thamnophis couchi)."

The report further states that the riparian woodland is "fragile and susceptible to watershed damage (vegetation removal and grading), water diversion, and stream pollution" and that chaparral is "subject to severe fire damage when extreme fire protection prevents natural burning cycles from occasionally reducing fire loads." When such impacts do not complicate recovery, riparian woodlands and chaparral "are generally capable of self-restoration after floods and fires." The report concludes that the primary impacts upon ecological resources in the SEA are due to residential development which contributes to cumulative impacts to "local land forms (through grading and erosion), stream pollution (through applying chemical pesticides and herbicides and septic tank seepage), and to biotic communities (through vegetation removal)."

A report prepared by the Coastal Conservancy in 1980 states that:

> there is extremely limited development potential in the watershed...the watershed has already been developed (at about 250 built homes) to a level beyond its carrying capacity... a Los Angeles County study found pollution in Cold Creek and concluded that Cold Creek probably does not meet standards for freshwater recreational uses and that it would be desirable to retire up to approximately 300 building sites generally lying in the southern and eastern portions of the watershed. The southern and eastern portions of the watershed which have remained relatively undeveloped, rise in a rugged and steep manner to the scenically spectacular Saddle Peak. The northern and western portion of the watershed, especially north of the lower reaches of Cold Creek (the Monte Nido area) have experienced dense and active subdivision and residential development.

The Land Use Plan policies addressing protection of ESHAs and Significant Watersheds are among the strictest and most comprehensive in addressing new development. In its findings regarding the Land Use Plan, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December 1986 that:

> coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The subject parcel is located within the Cold Creek Resource Management Area. The site is considered valuable as it is located in the upper Cold Creek watershed area. This area encompases sensitive riparian woodlands, and is an inherent component of the Malibu Creek/Lagoon ecosystem.

The LUP contains several policies designated to protect the Watersheds, and ESHA's contained within, from both the individual and cumulative impacts of development:

Protection of Environmental Resources

> P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 and all other policies of this LCP.

Table 1 states that for "existing parcels smaller than 20 acres in proximity to existing development and/or services, and/or on the periphery of the significant watershed", residential uses are permitted: "at existing parcel cuts (build-out of parcels of legal record) in accordance with specified standards and policies..." The Table 1 policies applicable to the Cold Creek Resource Management Area are as follows:

> Allowable structures shall be located in proximity to existing roadways, services and other development to minimize impacts on the habitat, and clustering and open space easements to protect resources shall be required in order to minimize impacts on the habitat.

Grading and vegetation removed shall be limited to that necessary to accomodate the residential unit, garage, and one other structure, one access road, and brush clearance required by the Los Angeles County Fire Department.

Stream protection standards shall be followed.

Other applicable Malibu/Santa Monica Mountains Land Use Plan policies include:

P64 An Environmental Review Board (ERB) comprised of qualified professionals with technical expertise in resource management (modeled on the Significant Ecological Areas Technical Advisory Committee) shall be established by the Board of Supervisors as an advisory body to the Regional Planning Commission and the Board to review development proposals in the ESHAs, areas adjacent to the ESHAs, Significant Watersheds, Wildlife Corridors, Significant Oak Woodlands, and DSRs. The ERB shall provide recommendations to the Regional Planning Commission (or decision making body for coastal permits) on the conformance or lack of conformance of the project to the policies of the Local Coastal Program. Any recommendation of approval shall include mitigation measures designed to minimize adverse impacts on environmental resources. Consistent with P271 (a)(7), projects shall be approved by the decision making body for coastal permits only upon a finding that the project is consistent with all policies of the LCP.

P65 The Environmental Review Board shall consider the individual and cumulative impact of each development proposal within a designated Significant Watershed. Any development within a significant watershed shall be located so as to minimize vegetation clearance and consequent soil erosion, adverse impacts on wildlife resources and visual resources, and other impacts. Therefore, development should be clustered and located near existing roads, on areas of relatively gentle slopes as far as possible outside riparian areas in canyons and outside ridgeline saddles between canyons which serve as primary wildlife corridors.

P67 Any project or use which cannot mitigate significant adverse impacts as defined in the California Environmental Quality Act on sensitive environmental resources (as depicted on Figure 6) shall be denied.

P68 Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.

P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.

<u>Stream Protection and Erosion Control</u>

P78 Stream road crossings shall be undertaken by the least environmentally damaging feasible method. Road crossings of streams should be accomplished by bridging, unless other methods are determined by the ERB to be less damaging. Bridge columns shall be

located outside stream courses, if feasible. Road crossings of streams within Environmentally Sensitive Habitat Areas designated by the LCP may be allowed as a conditional use for the purpose of providing access to recreation areas open to the public or homesites located outside the ESHA where there is no feasible alternative for providing access. Wherever possible, shared bridges or other crossings shall be used for providing access to groups of lots covered by this policy.

P79 To maintain natural vegetation buffer areas that protect all sensitive riparian habitats as required by Section 30231 of the Coastal Act, all development other than driveways and walkways should be set back at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation.

P80 The following setback requirements shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of the existing riparian or oak canopy for seepage pits. A larger setback shall be required if necessary to prevent lateral seepage from the disposal beds into stream waters.

P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.

P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

P88 In ESHAs and Significant Watersheds and in other areas of high potential erosion hazard, require site design to minimize grading activities and reduce vegetation removal based on the following guidelines:

Structures should be clustered.

Grading for access roads and driveways should be minimized; the standard new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the County Engineer and Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use.

Designate building and access envelopes on the basis of site inspection to avoid particularly erodible areas.

Require all sidecast material to be recompacted to engineered standards, re-seeded, and mulched and/or burlapped.

P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.

P96 Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste shall not be discharged into or alongside coastal streams or wetlands.

The applicant proposes to construct a 4,100 sq. ft., two story, 32 ft. high from finished grade, single family residence with attached 550 sq. ft. 3-car garage, pool, spa, driveway, septic tank, retaining wall, fencing, drainage swale adjacent to retaining wall and driveway trench drain, and remove portion of existing drainage swale. About 330 cubic yards of additional grading is proposed on the 0.95 acres building pad and driveway within the total 2.35 acre lot. The applicants do not propose to remove any significant vegetation.

In analyzing the proposed project for conformance with the resource protection policies of the Coastal Act, Land Use Plan and with Table 1 policies, one can address the project with regard to each policy in turn. For instance, Table 1 specifies that grading and vegetation removal shall be limited to that necessary to accomodate the residential unit, garage, an additional unit, a access road, and brush clearance. The project, as proposed, involves the construction of a residence with an attached garage on a lot with an existing building pad and access driveway. The only grading involved with the project is about 330 cubic yards of finished grading for the building pad and a retaining wall. Additionally, LUP policies (P78, P82, & P91) specify that grading activities be minimized, that structures be clustered, that development be designed to minimize landform alteration, and that said development is placed as close to existing services as possible. In the case of the proposed residence, the structure is accessed via a driveway that serves two other adjacent lots, and therefore the structures are clustered. The driveway will not need to be modified to serve the proposed development to meet the County of Los Angeles Fire Department's standard width of 20 feet. The project will not affect any natural landforms as the site's building pad is already graded. Although native vegetation does surround the site, including oak trees, no significant vegetation is to be removed as a part of the development of the residence.

Table 1 policies also specify that development be located in proximity to existing roads, services and other development to minimize impacts on habitat, and that streambeds, and ESHAs not be altered and that they are protected to the greatest extent possible. Additionally, LUP policy P96 specifies that and water quality be protected from degradation resulting from development. As mentioned, the proposed project site is located on a lot that is within the Cold Creek Resource Management Area. Furthermore, although the lot does contain a minor drainage swale from the building pad, the proposed drainage system will not cause erosion and the water disapator at the end of the swale that now exists is about fifty feet from Cold Creek. However, there remains a risk that sediment could enter the Cold Creek drainage from slopes recently graded or disturbed by construction activities. The Los Angeles County Environmental Review Board has provided on January 22, 1996 recommendations leading to a new drainage plan to address drainage issues. The Environmental Review Board also found this project consistent with the Malibu/Cold Creek Resource Management Area. This drainage plan is now part of the applicant's submittal.

The Commission finds that minimizing site erosion will add to the protection of the adjacent ESHA and the Cold Creek Canyon Watershed. Erosion can be

minimized by requiring the applicant to landscape all disturbed areas of the site with native, drought tolerant, and non-invasive, plants that are compatible with the surrounding environment. Therefore special condition number three (3) is required to ensure that all areas disturbed or graded as a part of this project, are stabilized and landscaped properly following construction activities. To ensure that no adverse impacts result from vegetation management activities, required by the Los Angeles County Fire Department, these landscape plans will also illustrate how fuel modification is implemented on site. Thus, this landscape and fuel modification plan will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Chapter 3 policies of the Coastal Act.

Further, future developments or improvements to the property normally associated with a single family residence, which might otherwise be exempt, have the potential to impact these sensitive environmental resources noted above. It is necessary to ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt, is reviewed by the Commission for compliance with the coastal resource protection policies of the Coastal Act. Condition number four (4), the future improvements deed restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Thus, the Commission finds that as conditioned, the proposed project is consistent with Sections 30231, 30240, and 30250(a) of the Coastal Act.

F. Septic System

The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. Section 30231 of the Coastal Act states that:

> The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30250(a) of the Coastal Act states in part that:

> New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In addition, the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan includes the following policies concerning sewage disposal, which are use as guidance:

P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause aggravate public health problems.

P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes...

P226 The County shall not issue a coastal permit for a development unless it can be determined that sewage disposal adequate to function without creating hazards to public health or coastal resources will be available for the life of the project beginning when occupancy commences.

The proposed development includes constructing a new septic pit and system to provide sewage disposal. The applicant has submitted an approval for the sewage disposal from the Department of Health Services, Los Angeles County. This approval indicates that the sewage disposal system for the project complies with all minimum requirements of the County of Los Angeles Plumbing Code. The septic pit is located at least 100 feet from the creek. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area of the Santa Monica Mountains that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

As discussed above, the proposed project has been mitigated to incorporate all recommendations by the applicant's consulting geologist, a wild fire waiver of liability, a landscape and fuel modification plan, and a future improvments restriction. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is found consistent with the requirements of CEQA and the policies of the Coastal Act.

7296A

COMPLETE THIS INFORMATION:

RECORDING REQUESTED BY:
INVESTORS TITLE COMPANY

AND WHEN RECORDED MAIL TO:
California Coastal Commission
45 Fremont St. #2000
San Francisco, Ca 94105-2219
attn: Legal Division

COPY of Document Recorded
96 951583 4/17/96
Has not been compared with original.
Original will be returned when processing has been completed.
LOS ANGELES COUNTY REGISTRAR - RECORDER/COUNTY CLERK

THIS SPACE FOR RECORDER'S USE ONLY

815439-07

DEED RESTRICTION

Exhibit 10
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

RECORDING REQUESTED BY AND
RETURN TO:
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco CA 94105-2219
Attn: Legal Division

DEED RESTRICTION

I. WHEREAS, Bob F. DaSilva & Sherry L. DaSilva, husband& wife, joint tenants, hereinafter referred to as the "Owner(s)," is/are the record owner(s) of the following real property:

See Exhibit B attached hereto and incorporated herein by reference

hereinafter referred to as the "Property;" and

II. WHEREAS, the California Coastal Commission, hereinafter referred to as the "Commission," is acting on behalf of the People of the State of California; and

III. WHEREAS, the subject property is located within the coastal zone as defined in §30103 of Division 20 of the California Public Resources Code, hereinafter referred to as the "California Coastal Act of 1976," (the Act); and

IV. WHEREAS, pursuant to the Act, the Owner applied to the Commission for a coastal development permit on the Property described above; and

V. WHEREAS, coastal development permit number 4-96-047 hereinafter referred to as the "Permit," was granted on June 14, 1996, by the Commission in accordance with the provision of the Staff Recommendation and Findings, attached hereto as EXHIBIT A and herein incorporated by

COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 8-72)
OSP

reference; and

VI. WHEREAS, the Permit was subject to the terms and conditions including, but not limited to, the following condition(s):

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. 4-96-047; and that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-96-047 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency. The removal of vegetation consistent with Special Condition three (3) of this permit 4-96-047 is permitted. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property, and shall be recorded free of prior liens.

VII. WHEREAS, the Commission found that but for the imposition of the above condition(s) the proposed development could not be found consistent with the provisions of the California Coastal Act of 1976 and that a permit could therefore not have been granted; and

VIII. WHEREAS, Owner has elected to comply with the condition(s) imposed by the Permit and execute this Deed Restriction so as to enable Owner to undertake the development authorized by the Permit.

//

COURT PAPER
STATE OF CALIFORNIA
STD 113 (REV 8-72)

NOW, THEREFORE, in consideration of the granting of the Permit to the Owner by the Commission, the Owner hereby irrevocably covenants with the Commission that there be and hereby is created the following restrictions on the use and enjoyment of said Property, to be attached to and become a part of the deed to the property.

1. COVENANT, CONDITION AND RESTRICTION. The undersigned Owner, for himself/herself and for his/her heirs, assigns, and successors in interest, covenants and agrees that:

The subject permit is only for the development described in Coastal Development Permit No. 4-96-047; and that any future additional or improvement s to the property, including clearing of vegetation (except for the removal of vegetation consistent with the approved Landscape and Fuel Modification Plan attached hereto as Exhibit C and incorporated herein by reference), and grading, will require an amendment to Permit No. 4-96-047 or will require an additional coastal development permit from the California Coastal Commission or from its successor agency.

2. DURATION. Said Deed Restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof remains effective, and during the period that the development authorized by the Permit or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the Property described herein, and shall bind Owner and all his/her assigns or successors in interest.

3. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable and shall constitute an enforceable restriction within the meaning of a) Article XIII, §8, of the California Constitution;

COURT PAPER
STATE OF CALIFORNIA
STD 113 (REV 8-72)
OSP

and b) §402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to the Property within the meaning of §3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

4. RIGHT OF ENTRY. The Commission or its agent may enter onto the Property at times reasonably acceptable to the Owner to ascertain whether the use restrictions set forth above are being observed.

5. REMEDIES. Any act, conveyance, contract, or authorization by the Owner whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the terms of this Deed Restriction will be deemed a violation and a breach hereof. The Commission and the Owner may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Deed Restriction. In the event of a breach, any forbearance on the part of either party to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

6. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Dated: June 14, 1996

SIGNED: _____ SIGNED: _____

Bob F. DaSilva
PRINT OR TYPE NAME OF ABOVE

Sherry L. DaSilva
PRINT OR TYPE NAME OF ABOVE

* * NOTARY ACKNOWLEDGMENT ON THE NEXT PAGE * *

COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 8-72)
OSP

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On June 14, 1996 before me, M. Teetor, A Notary Public personally appeared Bob F. DaSilva and Sherry L. DaSilva, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

M. TEETOR
COMM. # 1016198
Notary Public — California
LOS ANGELES COUNTY
My Comm. Expires FEB 3, 1998

Signature M. Teetor

STATE OF CALIFORNIA
COUNTY OF Los Angeles

On 6-14-96 before me, M. Teetor, A Notary Public personally appeared Bob F. DaSilva & Sherry L. DaSilva personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

M. TEETOR
COMM. # 1016198
Notary Public — California
LOS ANGELES COUNTY
My Comm. Expires FEB 3, 1998

Signature M. Teetor

COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 8-72)
OSP

This is to certify that the deed restriction set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 4-96-047 on June 14, 1996 and the California Coastal Commission consents to recordation therof by its duly authorized officer.

Dated: June 14, 1996

John Bowers, Staff Counsel

California Coastal Commission

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On 6/14/96 before me, Deborah L. Bove, A Notary Public personally appeared John Bowers, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

PC01 DEBORAH L. BOVE COMM. # 1074507 NOTARY PUBLIC-CALIFORNIA SAN FRANCISCO COUNTY My Comm. Expires Oct. 4, 1999 PC01

Signature _____

COURT PAPER
STATE OF CALIFORNIA
STD. 113 (REV. 8-72)
OSP

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
9 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 4/26/96
49th Day: 6/14/96
180th Day: 10/23/96
Staff: JCJ/V JCJ
Staff Report: 5/20/96
Hearing Date: 6/11-14/96
Commission Action:
7296A

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-96-047

APPLICANT: Bob and Sherry DaSilva

PROJECT LOCATION: 975 Cold Canyon Road, Calabasas, Los Angeles County

PROJECT DESCRIPTION: Construct a 4,100 sq. ft. two-story single family residence, attached three car garage, swimming pool and spa, driveway, retaining wall, swale and underground drainage system. Remove portion of existing drainage swale. Finished grading consists of about 330 cubic yards. The property includes a building pad, driveway and drainage swale approved in Coastal Permit P-81-7701.

Lot Area	2.35 acres
Building Coverage	3,570 sq. ft.
Pavement Coverage	4,208 sq. ft.
Landscape Coverage	1,500 sq. ft.
Parking Spaces	3
Zoning	1 du/ 5 acres
Plan Designation	Rural Land II
Project Density	1 du/ 2 acres
Ht abv fin grade	32 feet

LOCAL APPROVALS RECEIVED: Project Approval in Concept, Department of Regional Planning, Los Angeles County, dated 3/7/96; Sewage Disposal Approved, Department of Health Services, Los Angeles County, dated 3/8/96; Geologic Engineering Review Sheet, Los Angeles County Department of Public Works, Materials Engineering Division, dated 4/25/95; Fire Department, Los Angeles County, dated 2/8/96.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan, Los Angeles County; Coastal Permit No. P-81-7701, Western Estates; Coastal Permit 5-83-290, Western Estates; Coastal Permit Nos. 5-91-409 and 4-94-157, Teherani; Coastal Permit No. 4-92-153, Ballard; Coastal Permit No. 4-96-041, Zeluck-Leeds.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with four (4) Special Conditions; addressing the consulting geologist's recommendations, a wild fire waiver of liability, a landscaping and fuel modification plan, and a future improvements restriction. The property includes a portion of Cold Creek, a blue line stream, and the Stunt High equestrian trail within the Malibu/Cold Creek Resource Management Area and the Cold Creek Environmentally Sensitive Habitat Area. The project as conditioned will protect these resources and public access.

Exhibits 1 through 11 to the Staff Recommendation and Findings of Coastal Development Permit No. 4-96-047 are on file and can be viewed in the offices of the California Coastal Commission, Ventura District Office, at 89 South California Street, Suite 200, Buenaventura, California 93001.

Content of Exhibits

Exhibit 1 . . Project Location
Exhibit 2 . . Project Site Map
Exhibit 3 . . Subject Property
Exhibit 4 . . Plot Plan
Exhibit 5 . . Site Devleopment Plan
Exhibit 6 . . Drainage Plan
Exhibit 7 . . First Floor Plan
Exhibit 8 . . Second Floor Plan
Exhibit 9 . . Elevations
Exhibit 10. . Elevations
Exhibit 11. . Public Trails

EXHIBIT B

THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Lot 6 of Tract 33873, as per map recorded in Book 1136 Pages 12 to 20 inclusive of Maps, in the office of the county recorder of said county.

ALSO EXCEPT therefrom, all right, title and interest, including any reversionary interest, in and to all oil, oil rights, mineral rights, natural gas rights, and other hydrocarbons by whatsoever name known, together with all geothermal steam and steam power that may be within or under the parcel of the land hereinafter described together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from said land, or any other land, including the right to whipstock or directionally drill and mine from lands, other than those hereinafter described, oil or gas wells, tunnels and shafts into, through or across the subsurface of the land hereinafter described and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits, thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate and such wells or mines, together with the right to drill, mine, store, explore and operate through or on, and utilize, all or any portion of the surface and subsurface of the land herein described, as granted to Eastwood Minerals and Energy Company, a California corporation by deed recorded July 22, 1974 as Instrument No. 913.

All right to drill, mine, store, explore and operate through or on, and utilize, all or any portion of the surface of the upper 500 feet of the subsurface of the land, was quitclaimed by deed recorded October 6, 1977 as Instrument No. 77-1106676.

ALSO EXCEPT all mineral rights not heretofore otherwise conveyed or reserved, including without limitation all oil, gas, hydrocarbon and similar rights and all water, water rights, geothermal steam and steam power, within or underlying the real property, herein conveyed, together with the perpetual right of development thereof; provided, however, that the rights herein reserved and excepted do not include the right to enter upon the surface and the top 500 feet of the subsurface of the real property herein conveyed, reserved by deed recorded October 12, 1977 as Instrument No. 77-1132012.

EXHIBIT C

The Landscaping and Fuel Modification Plan approved pursuant to with special condition 3 of Coastal Development Permit No. 4-96-047, consisting of three (3) sheets labeled A-1 produced by Kevin Clark, signed by Robert Curley and approved by Keith Condon of the Los Angeles Fire Department, are on file and available for review at the California Coastal Commission South Central Coast office, at 89 South California Street, Suite 200, Ventura, California 93001.

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585 - 1800

NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT
REGULAR AND CERTIFIED MAIL

October 24, 2001

Bob & Sherry Da Silva
6311 De Soto Avenue, Suite F
Woodland Hills, CA 91367

Violation File Number:	V-4-01-045
Property location:	975 Cold Canyon Road, Calabasas; County of Los Angeles
Unpermitted Development:	Construction of a horse corral, a stable/tackroom, and a concrete culvert.

Dear Mr. and Mrs. Da Silva:

Our staff has confirmed that development consisting of construction of a horse corral, a stable/tackroom, and a concrete culvert that drains directly into the adjacent creek has occurred on your property, which is located within the Coastal Zone. Commission staff has researched our permit files and concluded that no Coastal Development Permits have been issued for any of the above development. Pursuant to section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a Coastal Development Permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

> ***"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....***

The above-mentioned construction of the horse corral, stable/tackroom, and cement culvert, constitute development under the Coastal Act and, therefore, require a Coastal Development Permit. Any development activity conducted in the Coastal Zone without a valid Coastal Development Permit constitutes a violation of the Coastal Act.

In most cases, violations involving unpermitted development may be resolved administratively by removal of the unpermitted development and restoration of any damaged resources or by obtaining a Coastal Development Permit authorizing the

Exhibit 11
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

development after-the-fact. Removal of the development and restoration of the site also requires a Coastal Development Permit. Therefore, in order to resolve this matter administratively, you must submit a complete Coastal Development Permit Application to either retain the development, or to remove the unpermitted development and restore the site to its previous condition.

In addition, it appears that the above referenced development is located within the dripline of several oak trees and within close proximity (less than 100 ft.) from a sensitive riparian habitat area and stream. Although you are entitled to submit a permit application to retain the unpermitted horse corral, stable/tackroom, culvert, and rock retaining wall, please note that the above development does not appear to be consistent with the Chapter Three policies of the Coastal Act of 1976. Therefore, our staff is likely to recommend denial of this project. If the Commission denies the project, our enforcement staff would work to resolve this violation through the restoration of the site and possible monetary payments. Therefore, in order to expedite resolution this violation, staff recommends that you submit an application for the removal of the unpermitted development and restoration of the site.

In order to resolve this matter in a timely manner and avoid the possibility of a monetary penalty or fine, we are requesting that you submit a complete Coastal Development Permit Application by **November 26, 2001,** for either removal of the unpermitted development and restoration of the site or to authorize the as-built development. For your convenience, a Coastal Development Permit Application has been enclosed. Please contact this office by no later than **November 8, 2001,** regarding how you intend to resolve this violation.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me or Mr. Steve Hudson.

Sincerely,

Kerry A. Sawyer
Assistant Enforcement Officer

cc: **Steve Hudson, Southern California Enforcement Supervisor**
John Ainsworth, South Central Coast District Planning Supervisor
Melanie Hale, South Central Coast District Planning Supervisor
Tom Sinclair, South Central Coast District Enforcement Officer

Enclosures: **Coastal Development Permit Application**

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bob & Sherry Da Silva
6311 De Soto Ave #F
Woodland Hills CA
91367

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Tami Hubbin ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery 10/26/01

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7001 2510 0006 7161 6481

PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 4.40

Postmark Here

Sent To Bob & Sherry Da Silva
Street, Apt. No.; or PO Box No. 6311 De Soto Ave #F
City, State, ZIP+4 Woodland Hills CA 91367

7001 2510 0006 7161 6481

PS Form 3800, January 2001 See Reverse for Instructions

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA CERTIFIED and REGULAR MAIL

June 19, 2003

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA 91302

Subject:	**Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings**
Violation No.:	V-4-01-045
Location:	975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)
Violation Description:	Unpermitted fencing, road, rock retaining wall, horse corral, stable/tackroom and cement drainage culvert with metal grate. The unpermitted development is located (at its closest point) approximately 10 feet from Cold Creek and is partially within a recorded access easement and mapped flood hazard zone (as depicted on Tract Map No. 33873).

Dear Mr. And Mrs. DaSilva:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order and Restoration Order to you for unpermitted development located on your property. The unpermitted development consists of fencing, a road, a rock retaining wall, a horse corral, a stable/tackroom, and a cement drainage culvert with metal grate. This development is located at 975 Cold Canyon Road in the Monte Nido area of Los Angeles

Exhibit 12
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

County, APN 4456-039-007 ("subject property"). This letter is being sent to you as the owners of record of the subject property.

The purpose of these enforcement proceedings is to resolve outstanding issues associated with the unpermitted development activities that have occurred at the subject property. Collectively, the Cease and Desist Order and Restoration Order will direct you to cease and desist from performing or maintaining any development that is subject to the permit requirements of the Coastal Act without a coastal development permit and will compel the removal of unpermitted development and restoration of the areas impacted by the unpermitted development. The Cease and Desist Order and Restoration Order are discussed in more detail in the following sections of this letter.

History of the Violation Investigation

On June 14, 1996, the Coastal Commission granted Coastal Development Permit (CDP) No. 4-96-047. The permit authorized you to construct of a 4,100 square foot single-family home, attached three-car garage, swimming pool and spa, driveway, retaining wall, swale and underground drainage system. The authorized development was located on a previously graded building pad on the upper portion of the subject property (approved under CDP No. P-81-7701).

Commission staff first learned of the alleged violation on the subject property on May 11, 2001. Since that time staff has attempted to resolve this matter with you in a manner that would not involve formal enforcement proceedings. On October 25, 2001, Commission staff sent to you a "Notice of Violation" letter regarding the unpermitted development on the subject property. The letter notified you that such development without a coastal development permit is a violation of the Coastal Act and requested that you submit a complete permit application by November 26, 2001, for either removal of the unpermitted development or for "after-the-fact" authorization of the development. Commission staff recommended that you submit a permit application for the removal of the unpermitted development and restoration of the site because the unpermitted development did not appear to be consistent with the Chapter 3 policies of the Coastal Act.

In a phone conversation with Commission staff on November 6, 2001, you stated your intention to file a permit application to retain all of the unpermitted development and requested an extension of the November 26 filing deadline. A deadline extension of January 21, 2002, was granted to you to submit a complete permit application. Commission staff again discussed this matter with you on January 28, 2002 and granted you a second extension of the deadline for submittal of your application to February 15, 2002. In a letter dated February 26, 2002, you outlined "pending and completed items" for your CDP application, but none of the CDP application materials you cited in this letter were submitted to the Commission at this time. In this letter you designated Lynn Heacox of The Land & Water Company as your representative in this matter. As of this date, you have not submitted the required CDP permit application materials.

As discussed below, the unpermitted development is not consistent with and is not authorized by the underlying permit, and is inconsistent with the Chapter 3 policies of the Coastal Act. Even if the unpermitted development were consistent with the Chapter 3 policies of the Coastal Act,

such activities are clearly included in the definition of "development" (Section 30106 of the Coastal Act), and therefore require a coastal development permit. Such development without a permit is a violation of the Coastal Act. In addition, as required by CDP 4-96-047, you recorded as Los Angeles County Instrument No. 96-951583 a "Future Development" deed restriction stating, in part, "that any future additions or improvements to the property, including clearing of vegetation and grading, will require an amendment to CDP 4-96-047 or will require an additional coastal development permit".

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

> *If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.*

As the Executive Director of the Commission, I am issuing this notice of intent to commence Cease and Desist Order proceedings since unpermitted development has occurred at the subject property. The unpermitted development is located (at its closest point) approximately ten feet from Cold Creek and is partially within a recorded access easement and mapped flood hazard area (as depicted on Tract Map No. 33873). Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

> *"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...*

Fencing and the construction of a road, rock retaining wall, horse corral, stable/tackroom, and cement drainage culvert with metal grate all constitute "development" and therefore require a CDP. Since the development was performed in the Commission's permit jurisdiction (there is no certified Local Coastal Program for this section of Los Angeles County), it requires a CDP from the Commission.

In addition, the underlying permit that authorized the construction of a 4,100 square foot single family home, attached three-car garage, swimming pool and spa, driveway, retaining wall, swale and underground drainage system (all of which are located approximately 50 feet from Cold Creek on the upper portion of the subject property) included a condition (Special Condition No. 3 of CDP No. 4-96-047) to record a "Future Development" Deed Restriction. The deed restriction, which you recorded, states, in part, "that any future additions or improvements to the

property, including clearing of vegetation and grading, will require an amendment to Permit No. 4-96-047 or will require an additional coastal development permit." For these reasons, the criteria of Section 30810(a) of the Coastal Act have been met and I am sending this letter to initiate proceedings for the Commission to issue a Cease and Desist Order.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to the requirements of the Coastal Act.

Restoration Order

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site:

> *In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.*

Such impacts meet the definition of damage provided in Section 13190(b): "any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." I have determined that the specified activity meets the criteria of Section 30811 of the Coastal Act, based on the following:

1) Development consisting of fencing and the construction of a road, rock retaining wall, horse corral, stable/tackroom and cement culvert with metal grate has occurred on the subject property without a CDP.

2) This development is inconsistent with the resource protection policies of the Coastal Act, including, but not limited to the following:

    a) Sections 30210 and 30213 (public access),
    b) Section 30223 (recreation),
    c) Sections 30230 and 30231 (marine resources, biological productivity and water quality),
    d) Section 30233 (diking, filling or dredging),
    e) Section 30236 (substantial alterations of rivers),
    f) Section 30240 (environmentally sensitive habitat areas or ESHA),
    g) Section 30251 (scenic and visual qualities), and
    h) Section 30253 (geologic and flood hazards, erosion and natural landform alteration).

3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations and is impacting the resources listed in the previous paragraph (item number two). The unpermitted horse corral is causing to

increased erosion and the sedimentation of the adjacent stream and nearby Cold Creek and increased polluted runoff from horse wastes draining directly into Cold Creek, including organic matter, ammonia, nutrients, and salts from manure and urine. Such polluted runoff can cause algae blooms and eutrophication, robbing aquatic life of dissolved oxygen. In addition, the unpermitted development, as listed above, is causing adverse impacts to water quality, marine resources, public access, sensitive habitat areas, the scenic and visual qualities of natural areas, the alteration of natural landforms, and development in a hazardous location. The impacts from the unpermitted development continue to exist at the subject property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Restoration Order proceeding before the Commission in order to restore the subject property to the condition it was in before the unpermitted development occurred.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.

Accordingly, any Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

Please be advised that if the Commission issues a Cease and Desist Order and Restoration Order, Section 30821.6(a) of the Coastal Act authorizes the Commission to seek monetary daily penalties for any intentional or negligent violation of the order(s) for each day in which the violation persists. The penalty for intentionally or negligently violating a Cease and Desist Order and/or Restoration Order can be as much as $6,000 per day for as long as the violation persists.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's San Francisco office, directed to the attention of Sheila Ryan, no later than Wednesday, July 9, 2003.**

At this time, the Commission staff is tentatively planning to hold a hearing on the issuance of a Cease and Desist Order and Restoration Order in this matter during the Commission meeting that is scheduled for August 5-8, 2003 in Orange County. If you have any questions regarding this letter or the enforcement case, please call Sheila Ryan at (415) 597-5894 or send correspondence to her attention at the address listed on the letterhead.

Sincerely,

Peter Douglas
Executive Director

cc: Sheila Ryan, Headquarters Enforcement Officer
Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Tom Sinclair, South Central Coast District Enforcement Officer
Chuck Damm, Senior Deputy Director, Southern California
Gary Timm, South Central Coast District Coastal Program Manager

cc with Encl.: Lynn Heacox, Applicant's representative

Encl. Statement of Defense Form for Cease and Desist Order and Restoration Order

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

STATEMENT OF DEFENSE FORM

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE COMPLETING THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order and restoration order issued by the Executive Director or a notice of intent to initiate cease and desist order and restoration order proceedings before the Coastal Commission. This document indicates that you are or may be responsible for, or in some way involved in, either a violation of the Coastal Act or a permit issued by the Commission. This form asks you to provide details about the (possible) violation, the responsible parties, the time and place the violation (may have) occurred, and other pertinent information about the (possible) violation.

This form also provides you the opportunity to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. You must also enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You must complete the form (please use additional pages if necessary) and return it no later than **July 9, 2003** to the Commission's enforcement staff at the following address:

Sheila Ryan
45 Fremont Street, Suite 2000
San Francisco, CA 94105

If you have any questions, please contact Sheila Ryan at 415-597-5894.

1. **Facts or allegations contained in the cease and desist order and restoration order or the notice of intent that you admit (with specific reference to the paragraph number in the order):**

_____

_____

_____

_____

_____

2. **Facts or allegations contained in the cease and desist order and restoration order or notice of intent that you deny (with specific reference to paragraph number in the order):**

3. **Facts or allegations contained in the cease and desist order and restoration order or notice of intent of which you have no personal knowledge (with specific reference to paragraph number in the order):**

4. **Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:**

_____

_____

_____

_____

_____

_____

_____

_____

5. **Any other information, statement, etc. that you want to offer or make:**

_____

_____

_____

_____

_____

_____

6. **Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the *administrative record for this enforcement proceeding (Please list in chronological order by* date, author, and title, and enclose a copy with this completed form):**

_____

_____

_____

_____

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA FACSIMILE AND REGULAR MAIL

July 3, 2003

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA 91302

Subject: Commission Notice of Intent letter dated June 19, 2003 and request for extension of deadline to submit Statement of Defense form

Violation No.: V-4-01-045

Location: 975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)

Dear Mr. And Mrs. DaSilva:

I am writing to respond to Sherry DaSilva's request for an extension to the July 9, 2003 deadline for submitting a Statement of Defense. Commission staff is granting a 30-day extension for your submittal of the Statement of Defense form. Therefore, please return the completed Statement of Defense form to my attention no later than **August 8, 2003**.

I enclose for your review a copy of the Environmentally Sensitive Resources map from the certified Malibu Land Use Plan that covers the Cold Creek area. Commission staff obtained the map data from the County of Los Angeles. As indicated on the map, your property is within the Cold Creek Management Area, which the Malibu Land Use Plan designates as Environmentally Sensitive Habitat Area (ESHA).

Sincerely,

Sheila Ryan
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor

Exhibit 13
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA REGULAR MAIL

August 8, 2003

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA 91302

Subject: Deadline for amended settlement proposal and expiration of deadline for Statement of Defense

Violation No.: V-4-01-045

Location: 975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)

Dear Mr. And Mrs. DaSilva:

I am writing in response to Sherry DaSilva's August 7, 2003 letter and our recent conversations regarding information requirements and a deadline for submittal of an amended settlement proposal to relocate the horse facility on your property. Staff understands that you are working with Klaus Radtke of Wildland Resource Sciences on an amended proposal. Please note that at this time staff is focused on the technical feasibility information and we are not expecting you to submit a lengthy or formal report. The following information is required in order for our staff to determine whether your proposal is feasible.

1. Indicate the location and extent of the existing riparian canopy on your site plan and specify the setback of the proposed stable location from the edge of the canopy. Indicate the setback of the proposed stable location from your house.

2. Discuss the existing slope of the proposed stable location and estimate the total amount of cut and fill that would be required for the proposed stable location.

3. Please include some photographs of the proposed stable location.

Please submit the amended settlement proposal to my attention no later than **August 22, 2003.** As we discussed, you may wish to wait until after our staff has completed an initial review of your revised proposal before you resubmit any new proposals to the County Environmental

Exhibit 14
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

Review Board for their review. Once the Commission has determined whether the proposal is feasible, you could then move forward with obtaining any necessary local approvals.

In our conversations yesterday and today, and in your August 7 letter to me, you indicated that if, after review of your amended proposal, our staff determines that the proposed relocation of the equestrian facilities on site is inconsistent with the Chapter 3 Resource policies of the Coastal Act, you would then be willing to remove the horse facility on your property. I explained that in this case, staff would recommend a Consent Order to authorize the removal of the unpermitted development on your property. A Consent Order, while still requiring a brief public hearing, is a cooperative settlement process and does not require you to submit a Statement of Defense. Instead, we would require you to submit a Waiver of Defenses form as the first step in this process. You indicated that you would be willing to pursue a Consent Order if the amended settlement proposal is denied.

We will await the outcome of the staff review of your amended settlement proposal before discussing the possibility of a Consent Order in further detail. Because of your stated intent to avoid a hearing for a contested enforcement order and your stated intent to remove the horse facility via a Consent Order if the settlement proposal is denied, we understand that you will not be submitting the Statement of Defense form that was due to me today.

Staff appreciates your statements about working cooperatively to resolve this issue. Please do not hesitate to call me at 415-597-5894 if you have any questions.

Sincerely,

Sheila Ryan

Sheila Ryan
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Jack Ainsworth, South Central Coast District Planning Supervisor
Stan Lamport, Cox Castle & Nicholson, LLP
Klaus Radtke, Wildland Resource Sciences

GEO SAFETY, INC.

1462 Lachman Lane Pacific Palisades, California 90272 U.S.A. (310) 459-9453 Fax (310) 459-6187

August 20, 2003

Ms. Sheila Ryan
Headquarters Enforcement Officer
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Relocation of Reduced Horse Facility

I am assisting Mr. & Mrs. DaSilva with relocating a reduced version of their present horse facility out of the ESHA and onto a new location that meets environmental and public health concerns.

The only such location available on the property would be to utilize a small portion of the upper section of the existing equestrian trail and an adjacent existing approximately 20' x 15' pad that had been excavated years ago, apparently for storage purposes. Please see the attached site plan prepared by Mrs. DaSilva and photographs that I took on 8-18-2003 roughly delineating the proposed site. The present barn, measuring 48' x 20' feet, would be reduced to 36' x 20' which includes a four-foot-wide attached covered walkway in front of the barn. The actual interior horse facilities would therefore be approximately 36' x 16'. A 16' x 12' tack room would be attached split-level to the uphill side of the barn adjacent to the present storage pad and across the trail so as to minimize slope excavation. It is estimated that approximately 25 cubic yards of cut and fill each would be required for the relocation of the barn and tack room as described above, and an upslope adjustment to a section of the upper trail. This is in addition to the approximately 20 - 25 cubic yards of cut made in the past to create the approximately 20' x 15' storage pad.

As indicated on the site plan the centerline of Cold Creek is located more than 100 feet from the new horse facilities, and the riparian canopy consisting of Coast Live Oaks, Sycamores, and Willows is located more than 50 feet. An exception is one Sycamore tree whose canopy is estimated to encroach within 35-40 feet of the barn but could be precisely field-measured if required. The relocated horse facilities would also be set back more than 50' from the single family residence.

The horse facilities would be located along the edge of a steeply descending slope that is vegetated with native Scrub Oak, Mountain Mahogany, Sugarbush (one specimen) and Chaparral Ash that have been thinned and fuel-modified as part of the Fire Department required fuel modification for the single family residence

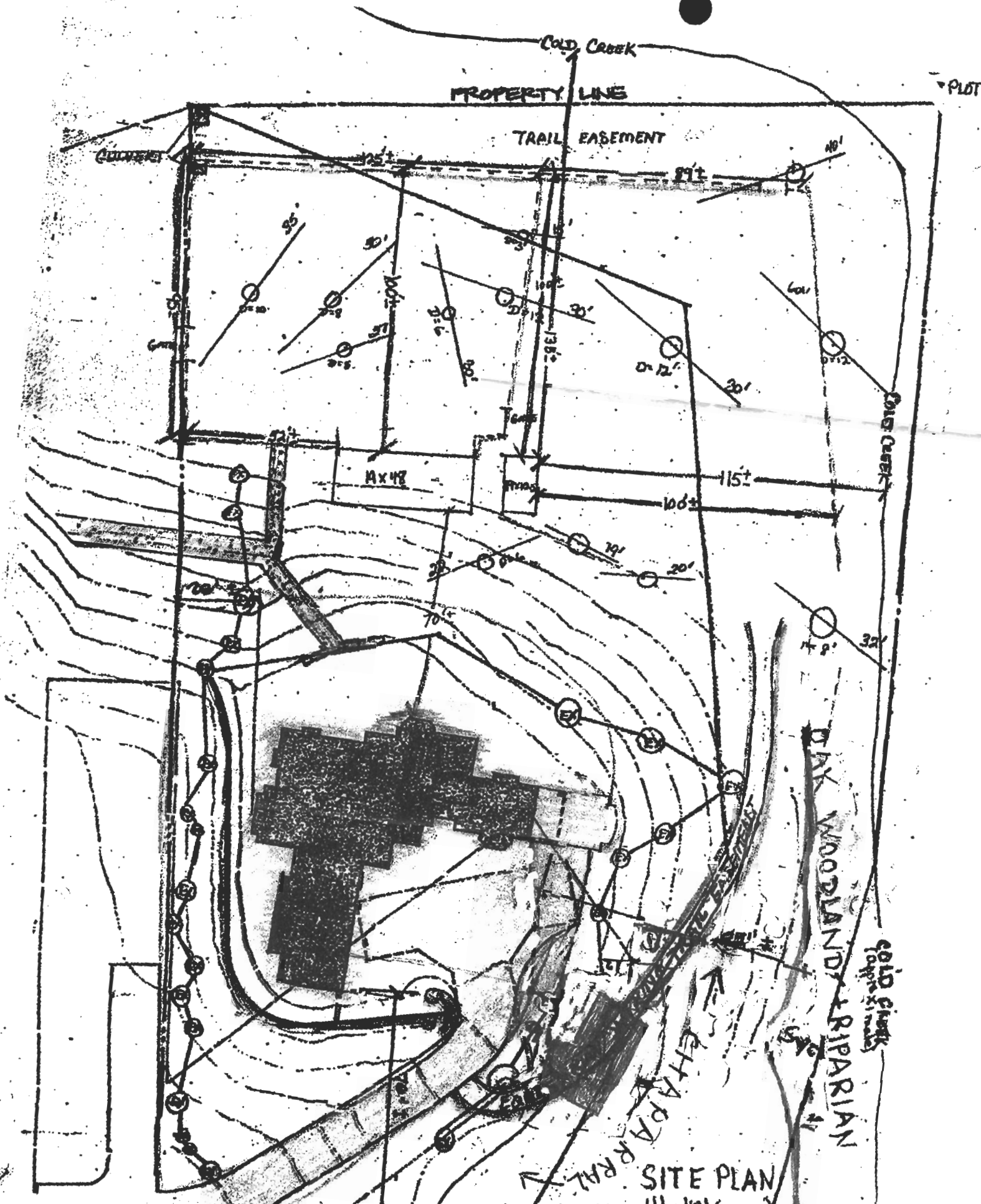
Please let me know if further information is required prior to a site visit by the Commission's biologist.

Klaus Radtke

Klaus Radtke, Ph.D.
Wildland Resource Sciences

cc: Bob & Sherry DaSilva
Steve Hudson, Southern California Enforcement Supervisor
Jack Ainsworth, South Central Coast District Planning Supervisor

Exhibit 15
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04


COLD CREEK
PROPERTY LINE
TRAIL EASEMENT
CULVERT
125±
89±
95'
30'
37'
30'
30'
30'
20'
14'
20'
20'
14x48
115±
106±
70±
OAK WOODLAND & RIPARIAN
COLD CREEK
SITE PLAN

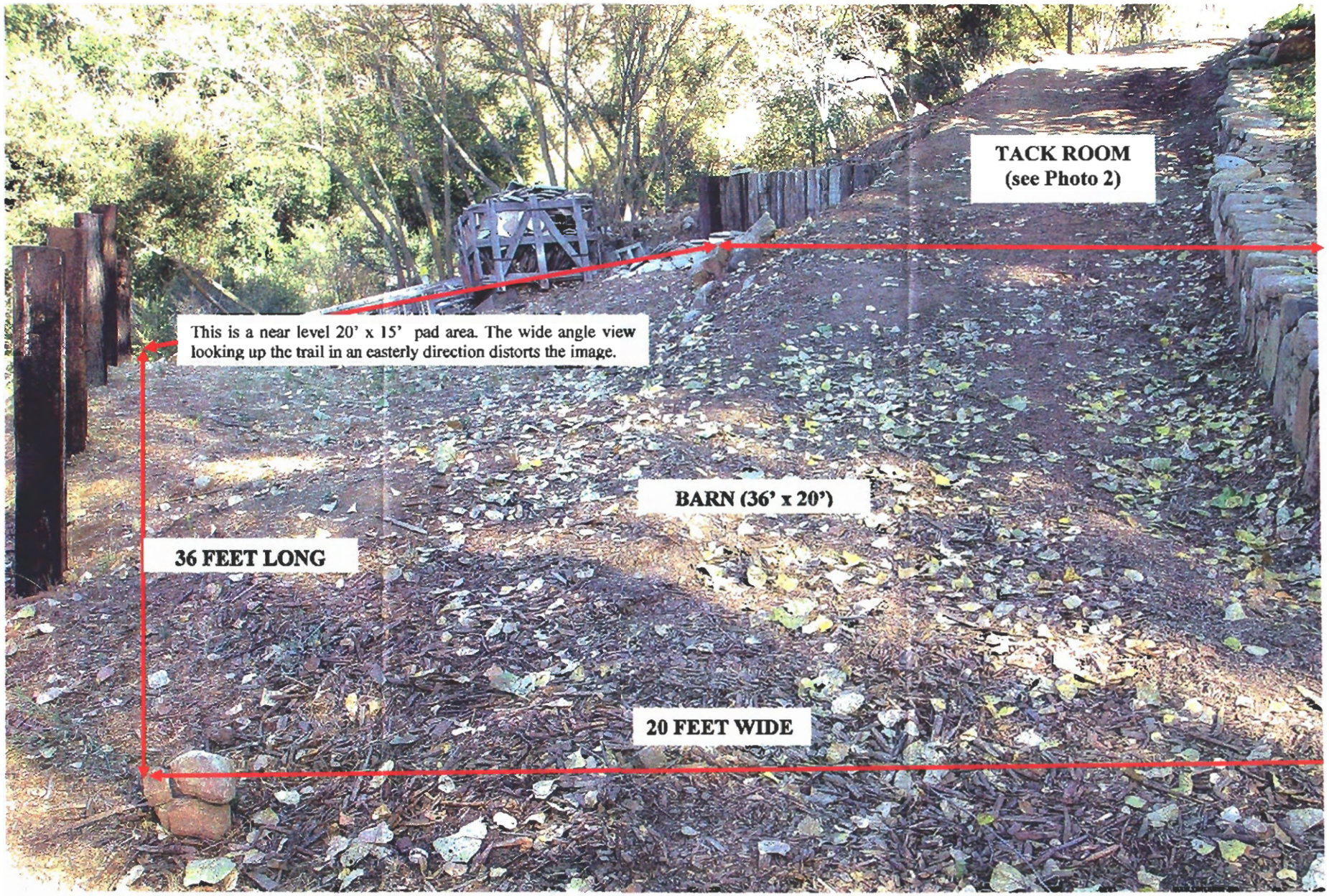


Photo 1 - Bob & Sherry DaSilva (975 Cold Canyon Road, Calabasas): Proposed Barn and Tack Room
(Note that the wide-angle photograph distorts the distances and angles)

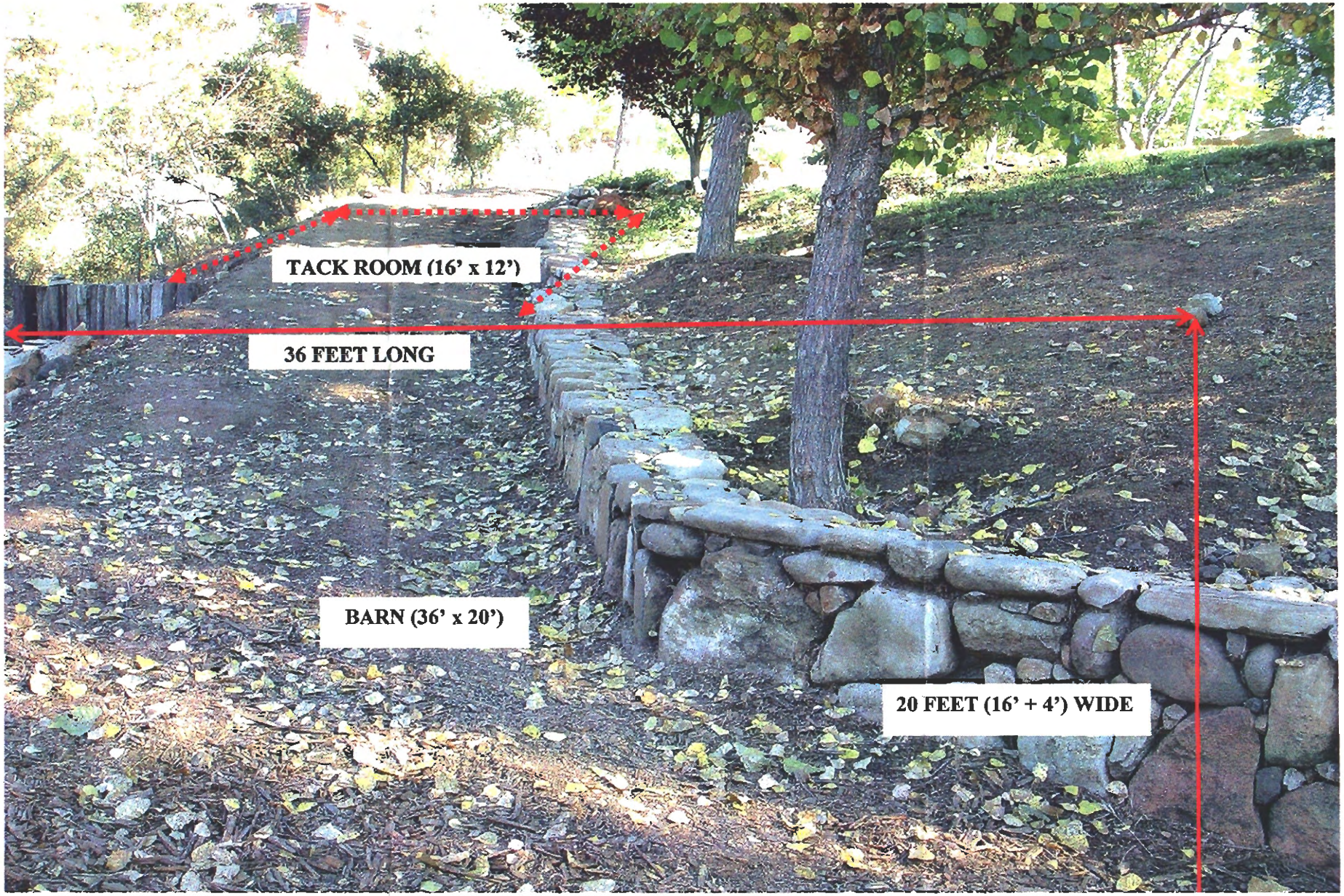


Photo 2 - Bob & Sherry DaSilva (975 Cold Canyon Road, Calabasas): Proposed Barn and Tack Room

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA REGULAR MAIL

September 12, 2003

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA 91302

Subject: Deadline for amended settlement proposal and relocation alternatives

Violation No.: V-4-01-045

Location: 975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)

Dear Mr. And Mrs. DaSilva:

Staff has reviewed the August 20, 2003 submittal of an amended settlement proposal to relocate the horse facility on your property. Staff understands that you are working with Klaus Radtke of Wildland Resource Sciences on the amended proposal. Staff would like to examine the feasibility of another possible relocation site for your horse facility, and we also need you to clarify some of the information you recently submitted.

1. Please submit a scaled site plan. The current submittal is not to scale and all distances and locations are approximate. At this time we must examine a scaled site plan, and a highly accurate depiction of the edge of the riparian canopy and all setback distances is essential. The riparian canopy is considered ESHA, which requires a 100-foot setback from the canopy edge. Indicate the location and extent of the existing riparian canopy on a scaled site plan and specify the setback of the proposed stable location from the edge of the canopy. Indicate the setback of the proposed stable location from your house.

2. Commission staff would also like to examine the feasibility of relocating your horse facility further up the slope on your property, in order to achieve the 100-foot riparian canopy setback requirement. I have roughly highlighted this possible alternate location on a copy of your existing site plan. On the new scaled site plan, discuss the existing slope of this location and estimate the total amount of cut and fill that would be required to relocate the horse facility in this location. Specify the setback of this alternative

Exhibit 16
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

proposed stable location from the edge of the canopy, and discuss whether any sort of retaining wall may be necessary for relocation in this area.

Please submit the amended settlement proposal to my attention no later than **October 17, 2003**. As we have previously discussed, you may wish to wait until after our staff has completed an initial review of your proposal before you resubmit any new proposals to the County Environmental Review Board for their review.

Please do not hesitate to call me at 415-597-5894 if you have any questions.

Sincerely,

Sheila Ryan

Sheila Ryan
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Jack Ainsworth, South Central Coast District Planning Supervisor
Stan Lamport, Cox Castle & Nicholson, LLP
Klaus Radtke, Wildland Resource Sciences

October 16, 2003

Bob & Sherry DaSilva
975 Cold Canyon Rd.
Calabasas, CA 91302

Ms. Sheila Ryan
Headquarters Enforcement Officer
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, Ca 94105-2219

Re: 2nd Submittal of Relocation of Reduced Horse Facility

Klaus Radtke, of Geo Safety, and myself have met to discuss a revised location and reduced version of my present horse facility. This location is out of what California Coastal Commission is identifying as ESHA and onto a new location that meets their environmental concerns.

To comply with the 100' set back from the Riparian Canopy we have explored the location you suggested on your last reply. This would utilize a small portion of the upper section of the property adjacent to the existing driveway and equestrian trail. A 20'x 40' pad would be excavated on a natural 2:1 slope. This location is consistent with your suggestion on the site plan dated 8-20-03. Please see the prepared site plan and photographs I took on 10-15-03 roughly delineating the proposed site. The barn would be reduced to a 20' x 40' covered corral. It is estimated that approximately 45 cubic yards of cut and fill would be required to relocate the corral. In addition a 3' retaining wall along the cut and the fill side of the slope.

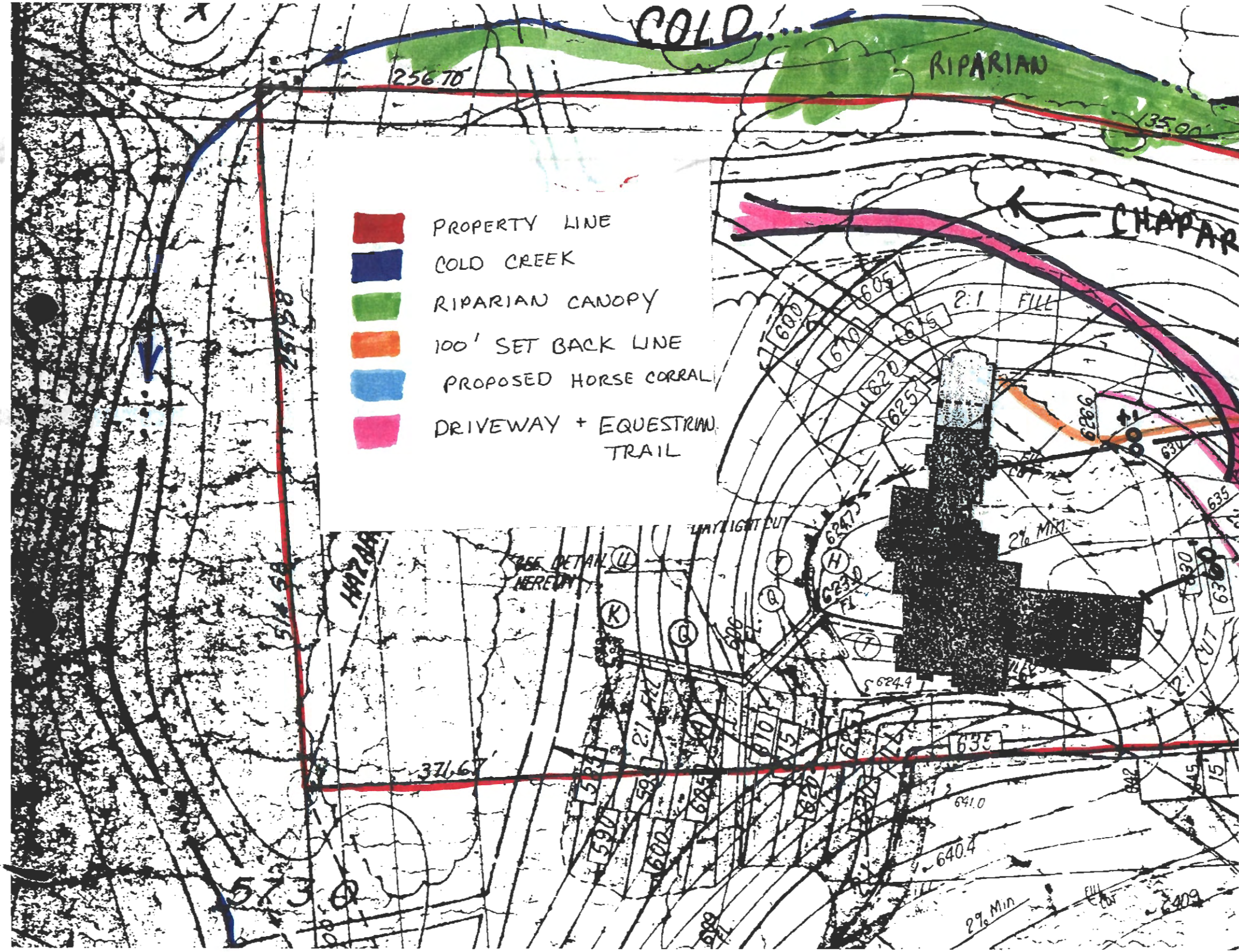
As indicted on the site plan the centerline of Cold Creek is located more than 100 feet from the new horse facilities. The riparian canopy consisting of Coast Live Oaks, Sycamores, and Willows is also located 100 feet away from the new facility. The relocated horse facilities would also be set back more than 50' from the single family residence.

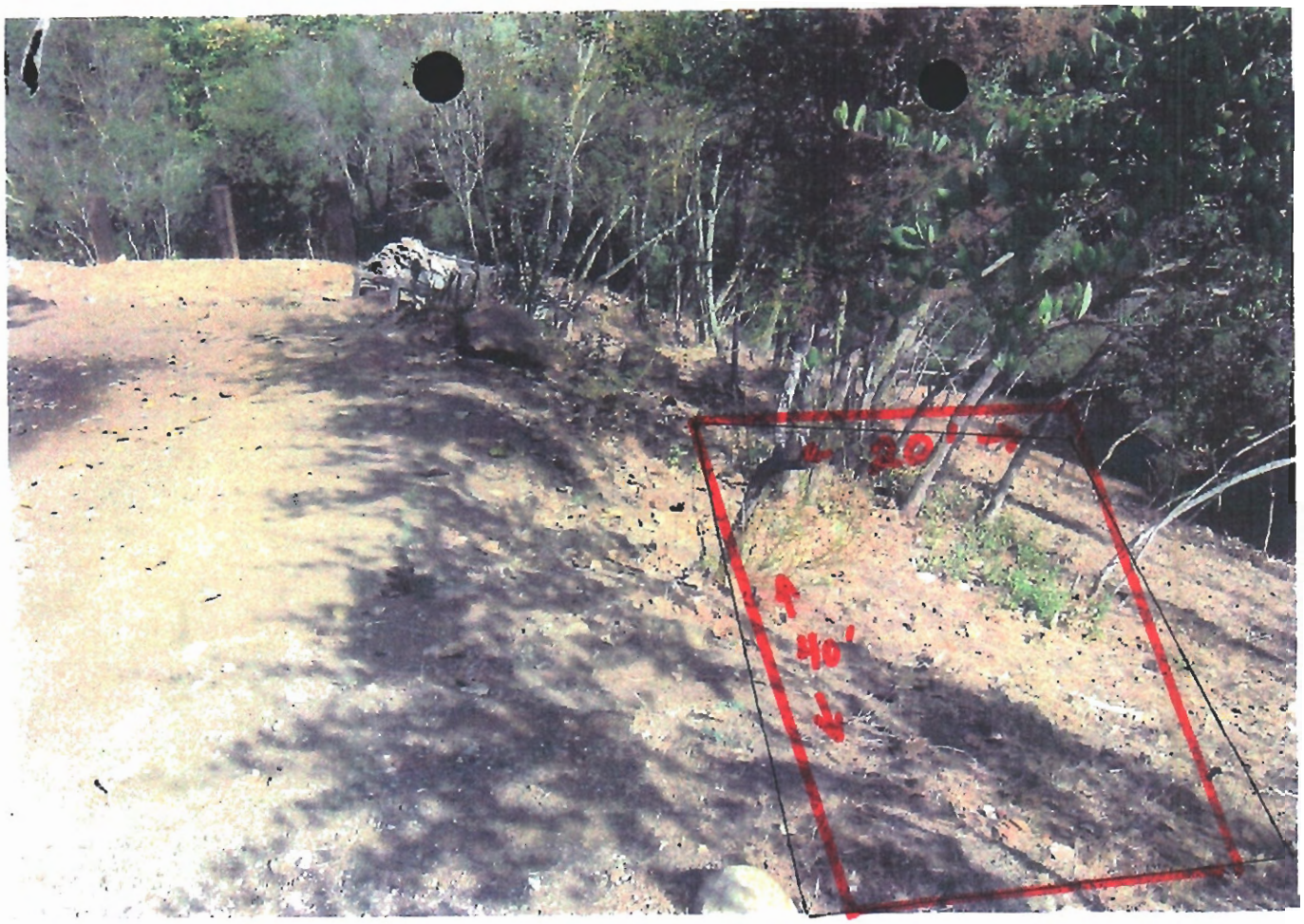
The horse facility would be located on a descending slope that is vegetated with Native Scrub Oak, and Mountain Mahogany and that have been thinned and fuel modified as part of the Fire Department required fuel modification for single family residence.

Please let me know if further information is required.

Sherry DaSilva

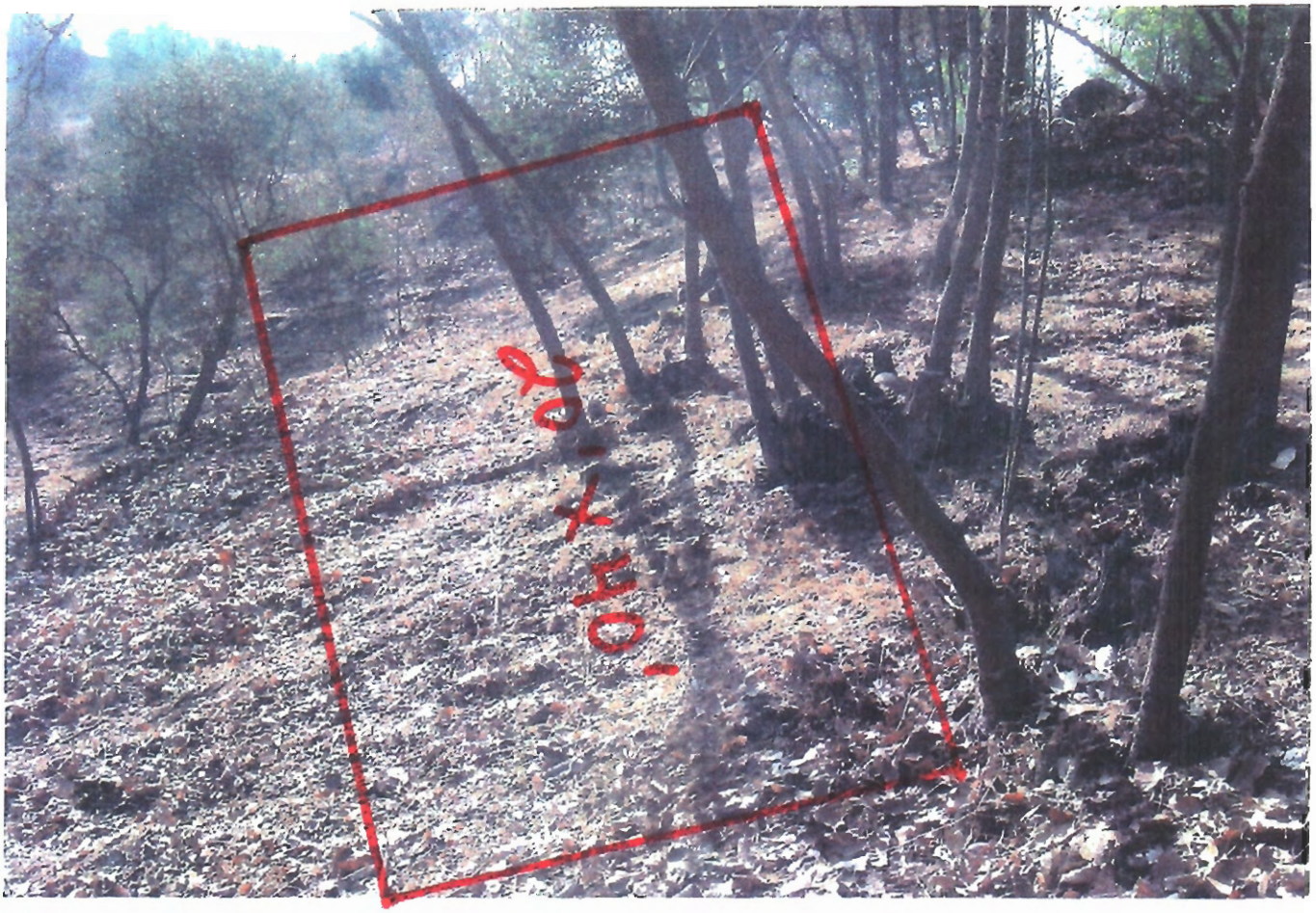
Exhibit 17
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04


COLD
RIPARIAN
256.70'
350.00'
PROPERTY LINE
COLD CREEK
RIPARIAN CANOPY
100' SET BACK LINE
PROPOSED HORSE CORRAL
DRIVEWAY + EQUESTRIAN TRAIL
2:1 FILL
2% MIN.
DAYLIGHT CUT
SEE DETAIL HEREON
371.67'
2:1 CUT
2% MIN
573.0



N

DASILVA 975 COLD CANYON RD.



S

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA REGULAR MAIL

October 27, 2003

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA 91302

Subject: Information requirements for amended settlement proposal and relocation alternatives

Violation No.: V-4-01-045

Location: 975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)

Dear Mr. And Mrs. DaSilva:

This letter memorializes the telephone conversation I had on October 24, 2003 with Mrs. DaSilva. Staff has preliminarily reviewed your October 16, 2003 submittal of an amended settlement proposal to relocate the horse facility on your property. We hereby clarify our information requirements for your submittal.

1. The location of the edge of the riparian canopy, the 100-foot setback from the canopy edge, and the 50-foot setback from the residence need to be accurately depicted on a scaled site plan. Please have a licensed surveyor or qualified restoration specialist map these locations on a scaled site plan so we can review your proposal. We cannot adequately evaluate the location of the canopy edge and setbacks from your current submittal, nor can Commission staff perform such an evaluation through a site visit.

2. Staff must examine the feasibility of relocating your horse facility in a location that is as far upslope as possible that minimizes the amount of cut and fill and vegetation removal that would be required and adheres to all setback requirements. We would like to examine the feasibility of relocation to the general area where the equestrian trail connects with your driveway. This area is west of the proposed relocation site in your most recent submittal, would utilize an existing relatively flat area (including the existing

Exhibit 18
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

trail), and would appear to require less cut and fill and vegetation removal than the proposed location along your eastern property boundary. Please submit plans and written analysis for this alternative location which specify the setback of this alternative proposed stable location from the edge of the canopy and from the residence, estimate the amount of cut and fill that would be necessary, and discuss whether any sort of retaining wall may be necessary for relocation in this area.

Please resubmit the amended settlement proposal to my attention no later than **November 21, 2003**. As we have previously discussed, you may wish to wait until after our staff has completed our review of your proposal before you resubmit any new proposals to the County Environmental Review Board for their review.

Please do not hesitate to call me at 415-597-5894 if you have any questions.

Sincerely,

Sheila Ryan

Sheila Ryan
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Jack Ainsworth, South Central Coast District Planning Supervisor
Stan Lamport, Cox Castle & Nicholson, LLP
Klaus Radtke, Wildland Resource Sciences

STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA REGULAR MAIL

November 21, 2003

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA 91302

Subject: *Extension of deadline for settlement proposal*

Violation No.: V-4-01-045

Location: 975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)

Dear Mrs. and Mrs. DaSilva:

I am writing in response to the extension request that I received from Mrs. DaSilva on November 13, 2003. Staff understands that you will be unable to meet the November 21, 2003 deadline because your consultant, Dr. Klaus Radtke, is out of town until after that date. I spoke with Mrs. DaSilva on November 18, 2003, who confirmed that she was working with Dr. Radtke on the settlement proposal and would provide the information required in the Commission's October 27, 2003 letter to you.

Staff hereby extends the deadline for submittal of the settlement proposal to **December 19, 2003**. Please submit the amended proposal to my attention no later than this date. If you have any questions, please call me at 415-597-5894.

Sincerely,

Sheila Ryan
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Jack Ainsworth, South Central Coast District Planning Supervisor
Klaus Radtke, Wildland Resource Sciences

Exhibit 19
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA CERTIFIED and REGULAR MAIL

September 2, 2004

Bob and Sherry DaSilva
975 Cold Canyon Road
Calabasas, CA, 91302

Subject: **Your settlement proposal and direction for resolution of the Coastal Act violation on your property**

Violation No.: V-4-01-045

Location: 975 Cold Canyon Road, Monte Nido, Los Angeles County (APN 4456-039-007)

Dear Mr. and Mrs. DaSilva:

I am writing regarding your settlement proposal for relocation of the unpermitted horse facilities on your property. Staff received your latest proposal dated December 15, 2003, and conducted a site visit on June 15, 2004. Unfortunately, staff cannot accept this settlement proposal, because the proposed relocation area is still within the required setback areas for environmentally sensitive riparian vegetation on your property. At this time, we are extending to you one opportunity to submit a complete Coastal Development Permit (CDP) application for the unpermitted development, within 60 days. If a complete CDP is submitted within this time period, we will not take immediate enforcement action. Despite this, it should be noted that, based on all available information and the site visit, it appears that staff is not likely to be able to recommend approval of retention of the unpermitted development under the requirements of the Coastal Act.

Exhibit 20
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

Please contact Jack Ainsworth in the Commission's Ventura office for guidance regarding the project description for this application. If you choose to submit the complete CDP application, please send the application materials to the attention of Barbara Carey in the Ventura office no later than **October 29, 2004**, and if you have any questions about what will constitute a complete application, please contact Barbara Carey at 805-585-1800. If staff does not receive a complete CDP application by this deadline, we will proceed with formal enforcement measures, including a recommendation for issuance of Cease and Desist Restoration Orders, as outlined in the Commission's June 19, 2003 Notice of Intent letter to you.

Sincerely,

Sheila Ryan
Headquarters Enforcement Officer

cc: Lisa Haage, chief of enforcement
Steve Hudson, Southern California Enforcement Supervisor
Jack Ainsworth, South Central Coast District Planning Supervisor
Barbara Carey, Coastal Program Analyst

7002 3150 0004 3501 1260

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$ .37
Certified Fee	2.30
Return Reciept Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	$ 4.42

USPS SAN FRANCISCO, CA RINCON FINANCE STATION SEP 2 2004 Postmark Here

S. Ryan

Sent To Bob and Sherry DaSilva
Street, Apt. No.; or PO Box No. 975 Cold Canyon Rd.
City, State, ZIP+4 Calabasas, CA 91302

PS Form 3800, June 2002 See Reverse for Instructions

STATE OF CALIFORNIA—THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

VIA CERTIFIED MAIL (No. 7006 2760 0005 5883 5729)
and REGULAR MAIL

June 10, 2009

Bob and Sherry L. DaSilva Family Trust
Bob and Sherry DaSilva, Trustees
975 Cold Canyon Road
Calabasas, CA, 91302

Exhibit 21
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

Subject: **Resending of Notice of Intent to Proceed to Hearing**

Violation No.: V-4-01-045

Violation Description: Unpermitted fencing, road, rock retaining wall, horse corral, four stall stable and tackroom, cement drainage culvert with metal grate, and related grading and vegetation removal. The unpermitted development is located, at its closest point, approximately 10 feet from Cold Creek, a perennial blueline stream, and impacts oak woodlands and riparian habitat areas.

Location: 975 Cold Canyon Road, Calabasas, Los Angeles County (APN 4456-039-007)

Dear Mr. and Mrs. DaSilva:

I am writing regarding the unpermitted horse corral and related facilities which remain on the Bob and Sherry L. DaSilva Family Trust's property. In light of the 2005 ownership change, we address this letter to you as Trustees of the Bob and Sherry L. DaSilva Family Trust, the title owner of the subject property. We note that the previous notices to you as title owners continue

to inform you as Trustees of the unpermitted status of the horse facilities on the property. As previously indicated in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings letter sent to you by the Executive Director of the California Coastal Commission ("Commission") on June 19, 2003, the construction and/or placement of those facilities on your property constituted "development," as that term is defined in the Coastal Act[1] (section 30106), and is not exempt from the Act's permit requirements. Thus, pursuant to section 30600, a coastal development permit ("CDP") was required prior to conducting that development. A CDP was never obtained. Commission staff tried to resolve this matter with you in a series of phone calls and letters from July 2003 through December 2003. In a further attempt to resolve this matter without formal enforcement action, in a letter dated September 2, 2004, a copy of which is attached for your convenience, staff gave you a final opportunity to submit a complete CDP application to either remove the unpermitted development and restore the site or gain after-the-fact approval of the unpermitted development no later than October 29, 2004. In response, on October 28, 2004, you submitted an incomplete application (Application No. 4-04-108). On November 24, 2004, South Central Coast District Commission permit staff sent you a letter detailing the items necessary for submittal of a complete CDP application. Despite this, over the next three years, permit staff did not receive any of the missing items required to complete the application identified by Commission staff in its letter to you. Therefore, due to your failure to complete CDP App. No. 4-04-108, the South Central Coast District office returned your incomplete application to you on October 25, 2007.

Commission staff conducted a new site visit on September 21, 2007 and observed that all of your unpermitted development was still present and in use on your property. On November 1, 2007, you submitted another application (No 4-07-137), which was substantially similar to the 2004 CDP application. Commission staff determined that CDP App. No. 4-07-137 was incomplete and notified you of what was needed to complete the CDP application by letter dated November 30, 2007. You have failed to send in any of the requested items necessary to complete CDP App. 4-07-137 despite having over a year and a half to do so, and therefore, the South Central Coast District office of the Commission returned App. No. 4-07-137 on June 4, 2009. As a result, the cited development activities remain unpermitted on your property, and the underlying Coastal Act violation case remains unresolved. Thus, all previous attempts to informally resolve the Coastal Act violations with you have been unsuccessful.

Despite your two incomplete CDP applications to obtain after-the-fact permit authorization to retain the unpermitted development, we must inform you that Commission staff has reviewed and previously responded to the preliminary and conceptual plan that you submitted on December 15, 2003 to relocate the unpermitted horse facilities, and conducted a site visit on June 15, 2004 to evaluate whether or not such a proposal would be consistent with the Coastal Act. Unfortunately, as Commission staff previously explained to you, staff would not be able to recommend approval of an application for the December 15, 2003 proposal under the applicable requirements of the Coastal Act, because the proposed relocation area is still within the required setback areas for environmentally sensitive riparian and oak woodlands vegetation on your property. As noted in our prior letters, the unpermitted development is resulting in ongoing resource damage by causing increased erosion and sedimentation of the adjacent stream,

[1] The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act.

increased polluted runoff from horse wastes, adverse impacts to sensitive habitat areas, alteration of natural landforms, and development in a potentially hazardous location.

We have provided you more than ample opportunity to resolve this matter through the coastal development permit process, and feel obligated to inform you that if you choose to submit yet another CDP application to seek after-the-fact permit authorization for the development here which was put in place without a CDP, as a result of legally binding regulatory updates of the Commission fee structure which went into effect last year, such an application will cost five times the filing fee for proposed future development, which a tentative, non-binding estimation shows to be approximately $50,000, and, moreover, will almost certainly be recommended for denial under the legal provisions of the Coastal Act, due to the significant resource impacts presented by this development in environmentally sensitive habitat areas and the fact that it is apparently not possible to resite the corral and related facilities to comply with the required 100-ft riparian zone setback at any of the proposed new locations. Note that the estimate filing fee above is only an estimate, as the actual filing fee for any CDP is determined by permit staff upon review of the application itself. We also note that another CDP application will require you to consult with geotechnical and other qualified consultants to complete an application which could be another costly endeavor on top of the filing fee mentioned previously. We strongly believe that it is in your best interests to work with Commission enforcement staff to reach agreement on a solution to remove the unpermitted development and restore the site to its pre-violation condition.

Potential formal enforcement measures include a recommendation that the Commission issue Cease and Desist and Restoration Orders, as outlined in the Commission's June 19, 2003 Notice of Intent to commence administrative proceedings letter which has already been sent to you, a copy of which is also attached to this letter. We also note that the Executive Director of the Coastal Commission is authorized, after providing notice and the opportunity for a hearing as provided in section 30812 of the Coastal Act, to record a Notice of Violation against the subject property, as well as to seek other administrative and judicial remedies. The purpose of such notices of violation is to avoid any potential parties from unwittingly purchasing a property with an ongoing Coastal Act violation on the property.

As we have repeatedly informed you, Commission staff prefers to resolve violations amicably when possible, thus we are offering you the option of a Commission Consent Order for one final time. A consent order is similar to a settlement agreement, would provide you with an opportunity to resolve this matter without a contested public hearing, and to have more input into the process and timing of removal of the unpermitted development and restoration of the subject property, and would allow you to negotiate a penalty amount with Commission staff. If you are interested in negotiating a consent order, please contact Matthew Summers at (415) 904-5233 or send correspondence to the attention of Matthew Summers at the address listed on the letterhead when you receive this letter, to discuss options to resolve this case **no later than June 30, 2009**. Note that the Commission is not obligated to grant you another opportunity to negotiate a consent order, as administrative enforcement proceedings could proceed since the June 19, 2003 Notice of Intent provided you with the required notice, but is offering you this opportunity as a courtesy.

However, if we do not hear from you by June 30, 2009 regarding your desire to finalize a negotiated consent order, then Commission staff will proceed with formal enforcement measures, including a recommendation for the issuance of Commission Cease and Desist and Restoration Orders, as outlined in the June 19, 2003 Notice of Intent as well as action by the Executive Director to record a Notice of Violation on your property pursuant to Section 30812. Even though you have had several opportunities to respond to prior notice and letters, we offer you one final opportunity for you to return the enclosed Statement of Defenses form, **which must be returned by June 30, 2009 directed to the attention of Matthew Summers at the Commission's San Francisco office.** We note that the Commission is not obligated to grant you this additional opportunity to respond but does so as a courtesy, and that this is your final opportunity to resolve the matter before it goes to a formal Commission enforcement hearing for the issuance of Cease and Desist and Restoration Orders. We strongly prefer to resolve enforcement cases amicably and believe that this can save significant resources for all parties. I look forward to hearing from you on this matter.

Sincerely,

Matthew Summers

Matthew Summers
Enforcement Division

cc: Lisa Haage, Chief of Enforcement
Pat Veesart, Southern California Enforcement Supervisor
Steve Hudson, South Central Coast District Manager
Tom Sinclair, South Central Coast District Enforcement Officer

Encl: September 2, 2004 letter from Sheila Ryan
June 19, 2003 Notice of Intent letter
June 4, 2009 Letter Returning CDP Application No. 4-07-137
Statement of Defenses Form

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

NOTICE OF INTENT TO RECORD A NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT

(REGULAR AND CERTIFIED MAIL No. 7006 2760 0005 5883 4982)

June 18, 2009

Bob and Sherry L. DaSilva Family Trust
Bob and Sherry DaSilva, Trustees
975 Cold Canyon Road
Calabasas, CA, 91302

Exhibit 22
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

Violation File Number: V-4-01-045

Property Location: 975 Cold Canyon Road, Calabasas, Los Angeles County (APN 4456-039-007)

Violation Description: Unpermitted development, including: construction of a horse corral, a road, a rock retaining wall, a four stall stable and tackroom, and a cement drainage culvert with a metal grate; placement of wooden fencing; clearance of vegetation; and related grading.

Dear Mr. and Mrs. DaSilva:

As you may know, the California Coastal Act[1] was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the Coastal Act. In making its permit and land use planning decisions, as well as in its enforcement actions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore water quality and sensitive habitats; protect natural landforms; protect scenic landscapes and views of the sea;

[1] The Coastal Act is codified in sections 30,000 to 30,900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

protect against loss of life and property from coastal hazards; and provide maximum public access to the sea.

The purpose of this letter is to notify you of my intent, as the Executive Director of the Commission, to record a Notice of Violation ("NOVA"), pursuant to Section 30812 of the Coastal Act, to reflect the existence of development in violation of the Coastal Act on the property located at 975 Cold Canyon Road in Calabasas; County of Los Angeles Assessor's Parcel Number 4456-039-007 ("subject property"), owned by the two of you as trustees of the Bob and Sherry L. DaSilva Family Trust. The purpose of a NOVA is to put potential purchasers of the subject property on notice that a violation of the Coastal Act has occurred on the subject property and avoid creating additional complications for all parties associated with a potential sale to an uninformed party.

The unpermitted development includes, but is not limited to: construction of a horse corral, a road, a rock retaining wall, a four stall stable and tackroom, and a cement drainage culvert with a metal grate; placement of wooden fencing; clearance of vegetation; and related grading on the lower portion of the subject property, adjacent to Cold Creek.

Under the Coastal Act, all development within the Coastal Zone not otherwise exempted under the Coastal Act requires a Coastal Development Permit. The term "development" is defined broadly in section 30106 of the Coastal Act as follows:

> **"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision... and any other division of land, including lot splits... change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations..."**

The above-described activities on the subject property constitute "development" as defined by Section 30106, are not exempt, and are within the Coastal Zone. As such, the activities are subject to Coastal Act permitting requirements. We have researched our permit files and found that the above-mentioned development has not been authorized by a coastal development permit ("CDP") as required by law.

Background

As I previously indicated in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings letter sent on June 19, 2003, the construction and/or placement of those facilities on your property constituted "development," as defined by section 30106, and is not exempt from the Act's permit requirements. Thus, pursuant to section 30600, a CDP was required prior to conducting that development. However, a CDP was never obtained. As noted in the recent letter from my staff to you dated June 10, 2009, Commission staff tried to resolve this matter with you in a series of phone calls and letters from July 2003 through December 2003. In a further attempt to resolve this matter without formal enforcement action, in a letter dated September 2, 2004, our staff gave you a final opportunity to submit a complete CDP application to either remove the unpermitted development and restore the site or gain after-the-fact approval of the unpermitted development no later than October 29, 2004. In response, on October 28, 2004, you submitted an incomplete application (Application No. 4-04-108). On November 24, 2004, South Central Coast District permit staff sent you a letter detailing the items necessary for submittal of a complete CDP application. Despite this, over the next three years, permit staff did not receive any of the missing items required to complete the application identified by Commission staff in its letter to you. Therefore, due to your failure to complete CDP App. No. 4-04-108, the South Central Coast District office returned your incomplete application to you on October 25, 2007.

Commission staff conducted a new site visit on September 21, 2007, and observed that all of your unpermitted development was still present and in use on your property. On November 1, 2007, you submitted another application (No 4-07-137), which was substantially similar to the 2004 CDP application. Commission staff determined that CDP App. No. 4-07-137 was incomplete and notified you of what was needed to complete the CDP application by letter dated November 30, 2007. You have failed to send in any of the requested items necessary to complete CDP App. 4-07-137 despite having over a year and a half to do so, and therefore, the South Central Coast District office of the Commission returned App. No. 4-07-137 on June 16, 2009.[2] As a result, the above-described development activities remain unpermitted on your property, and the underlying Coastal Act violation case remains unresolved. Thus, all previous attempts to informally resolve the Coastal Act violations with you have been unsuccessful, as noted in Staff's letter to you dated June 10, 2009, a copy of which is enclosed.

Notice of Violation

The Commission's authority to record a Notice of Violation is set forth in Section 30812 of the Coastal Act, subdivision (a) of which states the following:

> **Whenever the Executive Director of the Commission has determined, based on substantial evidence, that real property has been developed in violation of this division,**

[2] We understand that CDP Application No. 4-07-137 was listed as returned on June 4, 2009 in our letter of June 10, 2009, but we have since discovered, due to a staff absence, that the application was returned on June 16, 2009.

> **the Executive Director may cause a notification of intention to record a Notice of Violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.**

I am issuing this Notice of Intent to record a Notice of Violation because development has occurred on the subject property in violation of the Coastal Act. This determination is based on review of Commission records, site visits, and conversations with you. In the initial Notice of Violation Letter sent on October 25, 2001, and after your first failure to submit a complete CDP application to remove or retain the development, in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings letter sent on June 19, 2003, and in two letters dated September 2, 2004 and June 10, 2009, we notified you of possible enforcement actions under the Coastal Act, including the possibility of the recordation of a Notice of Violation under Section 30812 against your property.

Because you have repeatedly failed to complete CDP applications to remove or retain the unpermitted development, and have failed to resolve the violation on your property, staff will consider pursuing additional enforcement action in the future as described in the recent letter from my Staff and in the June 19, 2003 Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings. However, I am taking this action regarding a NOVA at this time to ensure that notice of the violation is recorded on the property's title. This notice will put potential purchasers of the subject property on notice that a violation of the Coastal Act has occurred and is unresolved.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence to the Commission at a public hearing on the issue of whether a violation has occurred, you must respond, in writing, within 20 days of the postmarked mailing of the notification. If, within 20 days of mailing of the notification, you fail to inform Commission staff of an objection to recording a Notice of Violation, I shall record the Notice of Violation in the Los Angeles County Recorder's Office as provided for under Section 30812 of the Coastal Act.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, to the attention of Matthew Summers or Nancy Cave, of my staff, no later than July 8, 2009. Please include the evidence you wish to present to the Coastal Commission in your written response and identify any issues you would like us to consider.

If you have any questions regarding this letter or the enforcement case, please call Matthew Summers at (415) 904-5233 or send correspondence to him at 45 Fremont Street, Suite 2000, San Francisco, CA 94105-2219. We look forward to working with you to resolve this situation and thank you in advance for your cooperation.

Sincerely,

PETER DOUGLAS
Executive Director

cc, w/o encl: Lisa Haage, Chief of Enforcement
Alex Helperin, Staff Counsel
Pat Veesart, Southern California Enforcement Supervisor
Nancy Cave, Northern California Enforcement Supervisor
Steve Hudson, South Central Coast District Manager
Tom Sinclair, South Central Coast District Enforcement Officer

encl: June 10, 2009 Letter
June 19, 2003 Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings
California Coastal Act Section 30812

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

July 1, 2009

Don Schmitz
Schmitz and Associates, Inc.
5234 Chesebro Road, Suite 200
Agoura Hills, CA 31301

Subject: Memorializing Phone Calls on June 30, 2009

Coastal Act Violation No. V-4-01-045 (DaSilva)

Dear Mr. Schmitz:

This letter is to memorialize our phone conversations undertaken on June 30, 2009. We understand that your company has been engaged by Bob and Sherry DaSilva as their agent to bring this Coastal Act violation case to a resolution and to bring the subject property at 975 Cold Canyon Road, Calabasas CA 91302 into compliance with the California Coastal Act. In the first call on June 30th, between you and me, you noted that the DaSilva's wish to resolve this matter quickly and that they are willing to remove all of the unpermitted development, that they had started to remove the unpermitted development, and that they wished to pursue restoration of the site under a Consent Restoration Order. I responded that the Commission will require both a Consent Cease and Desist Order and a Consent Restoration Order to resolve the matter, in order to ensure that the resolution of this case is enforceable. I also stated that if the DaSilva's continued to remove unpermitted development without authorization from the Coastal Commission they did so at their own risk of violating the permit requirements of the Coastal Act.

In the second telephone call on June 30, Nancy Cave and I telephoned you to discuss the case further at 11:45AM. Although not aware of it at the time, we understand that Donna Shen was also listening in on this telephone call with you. We repeated our position that the terms of an agreement to resolve this violation case will need to include the issuance of a Consent Cease and Desist Order in addition to a Consent Restoration Order in order to ensure that the agreement to remove the unpermitted development and restore the subject property will be enforceable. You stated that the future development deed restriction recorded on the property, pursuant to the terms of Coastal Development Permit No. 4-96-047, will serve to ensure that the agreement is enforceable, and questioned the need for a consent cease and desist order, given that fact. However, the recorded future development deed restriction did not stop the DaSilva's from developing unpermitted development without a permit on the subject property. In addition, Nancy Cave noted that the Commission is requiring a Consent Cease and Desist Order because the DaSilva's have had two previous opportunities over the last five years to resolve the matter by submitting a complete Coastal Development Permit Application, but failed to do so. You asked whether or not the Commission staff would support the DaSilva's submitting a CDP application to remove and restore the subject property. We responded that we would not support that action. We explained that the consent order option is the best option for all parties involved

Exhibit 23
CCC-09-CD-04
CCC-09-RO-03
CCC-09-NOV-04

because it eliminates the need for the submittal of a CDP, thus saving the cost of a CDP application for your clients and also avoiding Commission permit staff time necessary to process the CDP application. Further, Nancy Cave stated that the deadline for the Statement of Defenses form, which was on June 30, 2009, would not be extended. You stated that your clients, the DaSilvas, do not intend to file a Statement of Defenses as they wish to bring the matter to an amicable resolution with a consent order and agreement. We indicated that we would discuss your proposals for resolution with Commission enforcement management personnel.

After internal discussions, Nancy Cave and I telephoned you in the afternoon, at 3:35PM, June 30, 2009, to continue our discussion on resolving this case. I reiterated the Commission enforcement staff position that we will require a Consent Order agreement to include both a Consent Cease and Desist and a Consent Restoration Order, and that we will send, as soon as it is available, to you by fax, proposed language for the Consent Orders, including a provision for settlement monies in lieu of court-imposed penalties. You stated that your client was hoping to avoid a Consent Cease and Desist Order. Nancy Cave reiterated that the Commission requires both a Consent Cease and Desist Order and a Consent Restoration Order to ensure that the site is fully restored and protected in the future, as the pair of orders will ensure that the agreement is enforceable. Nancy Cave noted that these will be presented to the Commission as Consent Orders, and that the process will be viewed favorably by the Commissioners, when they review the terms of the agreement; recommending to you that the focus of the discussions should be on the "consent" aspect of the agreement. You stated that you wished to note that your clients had been working on the second permit application, as described above, and had been confused by the process as they worked to get local approval. Nancy Cave stated that we understand the concerns of the DaSilvas, and wish to resolve the matter with an agreement. In response to your question, Nancy Cave also told you to tell your clients to stop the removal of the unpermitted development, as removing the structures without an approved removal and restoration plan in place can cause significant further harm, which could require extensive and expensive remediation work. We note that any removal work performed on the subject site without authorization from the Commission constitutes a new violation of the Coastal Act, hence the DaSilvas must wait for the consent agreement to be reached, which would authorize them to remove the unpermitted development and restore the site. Nancy Cave concluded the telephone call by stating that we will send proposed language for the consent orders and agreement once it has been reviewed internally.

If you have any questions or concerns regarding this letter, please do not hesitate to contact me at 415-904-5233. We look forward to working towards resolution of this matter.

Sincerely,

Matthew Summers

Matthew Summers
Enforcement Division

cc: Nancy Cave, Northern California Enforcement Supervisor